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# ELECTORAL Insight

A MAGAZINE PRODUCED BY ELECTIONS CANADA TO PROMOTE EXCELLENCE AND LEADERSHIP IN ELECTORAL MATTERS

## Reform of Election Financing: Canada, Great Britain and the United States

The Next Readjustment  
of Federal Electoral  
Boundaries

A Profile of Thérèse  
Casgrain: Suffragist  
and First Female  
Party Leader



# Contents

VOL. 4 • NO. 1 • MAY 2002

## 1 The Chief Electoral Officer's Message

## 2 Reform of Election Financing

### 2 Election Financing in Canada

Tim Mowrey and Alain Pelletier

Many reforms have been made at the federal, provincial and territorial levels, but more accountability and transparency is still needed

### 9 Soft Money, Issue Advocacy and the U.S. Campaign Finance Law

Richard Briffault

As campaign costs rise dramatically, Congress passes new legislation addressing unregulated donations and the definition of election-related spending

### 15 The British Political Parties, Elections and Referendums Act

Guy Lachapelle and Céline Roehrig

After a long history of very few rules, Britain's new Act puts stricter controls on some financial donations and their influence, and imposes limits on expenditures

## 22 Readjustment of Federal Electoral Boundaries

Herschell Sax

It's that time again. Preparations have begun for the next round of changes resulting from the 2001 census

## 26 Choice of an Electoral System

Marc Chénier

An update on challenges to Canada's first-past-the-post system

## 30 Thérèse Casgrain: Suffragist, First Female Party Leader, and Senator

Wayne Brown

She led the campaign to get Quebec women the right to vote and became the first woman elected leader of a political party in Canada

## 35 Electoral News in Brief

## 42 Electoral Facts

Wayne Brown and Alain Lalonde

A look at what the parties, candidates and third parties could and did spend in the 2000 and 1997 federal elections

### THE COVER

Eleanor Milne, Chris Fairbrother and Marcel Joannis

*The Vote* (1979-1980)

Indiana limestone, 121.9 x 182.8 cm, House of Commons, Ottawa

The base stone of *The Vote*, a sculpture on the east wall of the House of Commons chamber, shows four heads with flowing hair whose mouths shape, in song, the first syllables of Canada's national anthem, "O-Ca-na-da".

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Submissions of articles and photos that might be of interest to *Electoral Insight* readers are welcome, although publication cannot be guaranteed. If used, submissions will be edited for length and clarity as necessary.

Please address all contributions and letters to the Editor, *Electoral Insight*, Elections Canada, 257 Slater St., Ottawa, Canada K1A 0M6.

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Jean-Pierre Kingsley  
Chief Electoral Officer of Canada

## Reform of Election Financing

**T**ransparency is one of the most important pillars of representative democracy. It guarantees the bond of confidence between the people and its representatives.

This confidence will be more solidly established if the public's right to know about electoral financing is served and respected.

Canadians have the right to know who is influencing the electoral process, or attempting to influence the electoral process, and how

it is being done. While the *Canada Elections Act* already contains a number of disclosure provisions, the election financing system

used at the federal level still allows weaknesses in accountability regarding contributions to party nomination and leadership campaigns and the financial activities of local party associations.

In November 2001, I submitted to Parliament my report following the 37th general election, *Modernizing the Electoral Process*, which contains recommendations designed to reflect the needs of an increasingly mobile, informed and diverse population and to stay abreast of the new and changing realities of Canadian society. More specifically, many of the recommendations are designed to serve the public's right to know the details of election financing and to encourage a more level playing field for candidates and political parties. Some of the measures would also make the electoral process more accessible and efficient and improve the management of the administrative processes involved in conducting elections.

The recommendations are based on the work of the Royal Commission on Electoral Reform and Party Financing (1992), the lessons learned from the 1993, 1997 and 2000 general elections, and recent, broad-ranging consultation with electors, candidates, the Advisory Committee of Political Parties, returning officers and the academic community. My report also reflects the eleven years I have spent at the helm of Elections Canada and my considered reflections on the measures that are necessary to reflect the spirit of equality on which the *Canada Elections Act* is based. More information about my recommendations is presented in this edition and can also be viewed by visiting the Elections Canada Web site ([www.elections.ca](http://www.elections.ca)).

Around the world, legislators have addressed the election financing issues in different ways, reflecting the values and culture of each country. This fifth edition of *Electoral Insight* reviews the election financing regulations in Canada, Great Britain and the United States, and highlights their different methods of dealing with money in elections and public confidence in the electoral process. In March, President George W. Bush signed into law comprehensive changes to the campaign finance regulations in the United States. In Great Britain, the *Political Parties, Elections and Referendums Act* came into force in February of last year to regulate election financing of political parties. In Canada, the basis of the current regime applicable for both candidates and political parties was adopted in 1974.

I trust the articles in this edition will encourage discussion. I welcome your comments and suggestions for new topics to explore. ✖

A handwritten signature in black ink that reads "Jean-Pierre Kingsley". The signature is fluid and cursive.

Jean-Pierre Kingsley



# Election Financing

## IN CANADA



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### Introduction

The principles of transparency, fairness, and participation are fundamental to a modern electoral process. The history of election financing in Canada and the recent rounds of reform show a pattern of trends that cross federal, provincial, and territorial borders: trends toward electoral laws and policies that increase transparency, ensure fairness, and promote participation. Pursuit of these principles is evident in the basic features of most election financing regimes in Canada: registration of election participants; election expenses limits and limits on sources of contributions; disclosure of financial transactions; regulation of advertising, broadcasting and publication of opinion polls; and public funding of the electoral process.

## Brief History

Canada's first election financing regime was established in 1874, with the passage of the *Dominion Elections Act* (DEA). The DEA was the result of the highly publicized "Pacific Scandal" involving Prime Minister Sir John A. Macdonald and the promoters of the Canadian Pacific Railway, who were providing large campaign contributions to the federal Conservative Party in return for government favours. The DEA included provisions governing the reporting of campaign expenses and a requirement for the appointment of an official agent for each candidate.

After these modest first steps, which were largely based on the British *Corrupt Practices Act* of 1854, election financing regimes progressed slowly, and were usually subject to reform following a scandal or crisis. Further amendments were made incrementally, although no major amendments were made to the federal election financing provisions from 1920 to 1974.

The first modern election financing regime in Canada was introduced in Quebec, in 1963. In that year, the Quebec *Election Act* was amended to include expenses limits for political parties and candidates, to require candidates to have an official agent, and to introduce partial election expenses reimbursements to candidates. All these provisions were largely borrowed from the British legislation of the time. Nova Scotia followed suit with similar legislation in 1969. Saskatchewan introduced election financing legislation in 1974, followed by Ontario (1975), Alberta (1977), New Brunswick (1978), British Columbia (1979), Manitoba (1980), the Northwest Territories (1986), Prince Edward Island (1988), Newfoundland (1993), and the Yukon Territory. (Although expenses disclosure provisions were in force for the 1978 election in the Yukon, the amounts reported were so small, the sections were revoked. The first lasting introduction of election financing

provisions in the Yukon occurred in 1999.) Nunavut borrowed the *Election Act* of the Northwest Territories for its first election in 1999.

In partial response to the Quebec legislation, and also due in part to rising campaign costs, two federal committees were established between 1963 and 1970 to analyze election financing at the federal level. The Barbeau Committee (which reported in 1966) and the Chappell Committee (which reported in 1972) made extensive recommendations concerning election finance regulations. In 1974, 100 years after the first election financing legislation, Parliament passed the *Election Finances Act* (EFA), beginning the modern election financing regime at the federal level in Canada. While there have been other amendments since 1974, the election financing provisions established in the EFA remain the basis for federal election financing in Canada today.

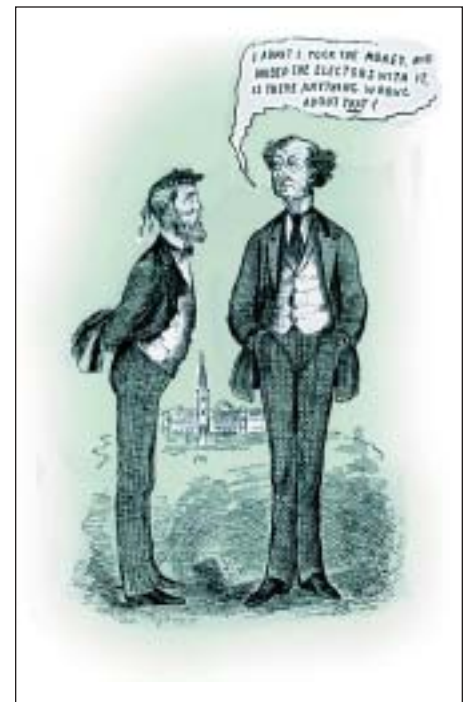
## Contemporary Context

The contemporary context for reform of election financing regulations stems from two events. First is the passing of the *Canadian Charter of Rights and Freedoms* in 1982. The Charter enshrined fundamental freedoms (section 2 includes freedom of speech and association) and democratic freedoms (section 3), which include the right to vote and become a candidate. Since 1982, there has been a significant increase in litigation concerning electoral and election financing issues.

Second, the Royal Commission on Electoral Reform and Party Financing in 1992 tabled a four-volume report with over 500 recommendations and published 23 research volumes, including 5 on election financing. The Royal Commission acknowledged that the Canadian electoral system rests on the principles of transparency, fairness and participation. The Royal Commission further recognized that public confidence in the

electoral process was essential, and sought to enhance the integrity of the process by reforming election financing. Many election administrators, both federal and provincial, have built upon the Royal Commission's recommendations. For example, the Chief Electoral Officer of Manitoba referenced the Royal Commission when making recommendations to the Legislative Assembly in 1999.<sup>1</sup> Similarly, the Chief Electoral Officer of Canada has used the Royal Commission's report to support many of his recommendations to Parliament. For information about the Chief Electoral Officer's most recent recommendations to Parliament (2001), please refer to page 7 and to the section entitled Electoral News in Brief.

The recent trends in election financing in Canada can be tracked through the passing and amending of related statutes. Notably, the Yukon Territory introduced legislation to regulate election financing in 1999. At the federal level, a new *Canada Elections Act* was adopted in May 2000, while in Manitoba,



In the 1874 election that followed the "Pacific Scandal," Sir John A. Macdonald's Liberal-Conservatives were defeated by Alexander Mackenzie's Liberals who immediately passed the Dominion Elections Act, regulating some aspects of campaign finance.

1873 cartoon: National Archives of Canada, Library, negative no. C78604

significant amendments to the *Elections Finances Act* occurred in August 2000. All rounds of reform sought to increase transparency, enhance fairness and promote participation in each jurisdiction's election financing regime. The following will demonstrate the similarities and differences in election financing regimes across Canada.

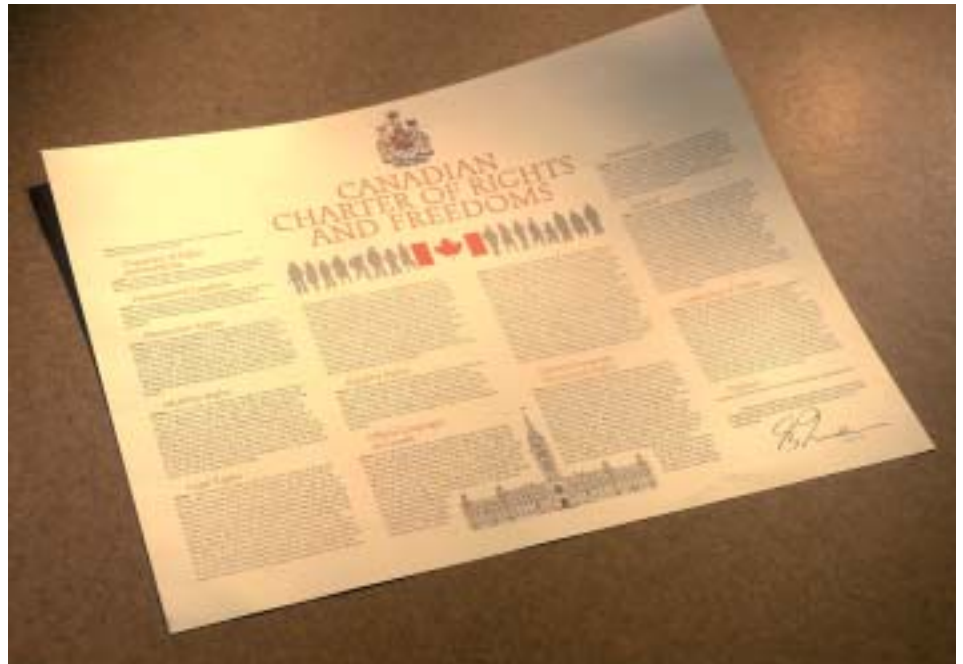
## Registration

Registration of political parties is a universal characteristic of election administration across Canada, except in the Northwest Territories and Nunavut, where political parties do not exist. However, despite its universality, political party registration is a relatively new phenomenon in Canada. Federally, parties were not legally recognized until 1970, while at the provincial level, British Columbia and Newfoundland did not require parties to register until the 1980s.

More recently, several provinces have extended the registration requirements to include local associations and, at the federal level as well as in Quebec and British Columbia, to third parties (which are individuals or organizations other than candidates or political parties). In August 2000, the Manitoba legislature considered third party registration provisions during amendments to the *Elections Finances Act*, but did not proclaim those sections of the bill to be in force.

## Election Expenses

The definition of election expenses varies from one jurisdiction to another. However,



The goal of election expenses limits is to reduce the ability of wealthy interests to unduly influence or dominate the electoral process.

it typically includes all costs incurred to promote or oppose the election of a candidate or a political party. In many jurisdictions in Canada, both direct and indirect expenses are covered, but at the federal level and in the Yukon Territory, the Northwest Territories and Nunavut only direct expenses are covered. Usually, the personal expenses of a candidate are not included in this definition. Most jurisdictions impose a spending limit based on the number of electors in the electoral district where the candidate is running, or the combined electoral districts where the political party is running candidates. Only Saskatchewan sets a fixed election expenses limit for political parties during a general election.<sup>2</sup>

The goal of election expenses limits is to reduce the ability of wealthy interests to unduly influence or dominate the electoral process. As noted, the first government in

Canada to introduce limits on election spending was Quebec, in 1963. Most other provinces have followed this lead, except for Alberta, and the Yukon Territory, which do not impose spending limits on either political parties or candidates. The government of the Yukon did not consider spending limits necessary during the 1999 round of electoral reform in that territory.

Despite these two exceptions, there has been a marked trend toward imposing spending limits on political parties and candidates since 1963. Newfoundland (1993) and British Columbia (1995) were the most recent provinces to follow this trend. There has also been a trend toward the extension of spending limits to cover a broader spectrum of expenses. At one time, for example, Ontario and Manitoba only regulated election advertising expenses, but have since moved to limit election expenses. Support from the electorate for spending limits is high. The 2000 Canadian Election Study showed that 93 percent of respondents supported spending limits for candidates and political parties.

## Contributions

All jurisdictions across Canada impose some regulations on the solicitation and receipt

of contributions by political parties and candidates. Most jurisdictions restrict the source of campaign contributions, and some limit the amount that may be contributed.

In terms of controlling the source of contributions, Newfoundland and Labrador is the least restrictive, limiting only the amount that recipients may accept as anonymous contributions. Most restrictive are Quebec and Manitoba, which only permit electors (Quebec)<sup>3</sup> or individuals (Manitoba) to contribute to candidates and political parties. Quebec has restricted contributions in this way since 1977, while in Manitoba this provision was introduced in the August 2000 legislative amendments to the *Elections Finances Act*.

Five provinces limit the amount that a person or organization may donate to a political party, candidate, or local association during a year or an election (New Brunswick, Quebec, Ontario, Manitoba, and Alberta).

Ontario was the first to legislate in this area in 1975.<sup>4</sup> Again, the province to legislate most recently in this area is Manitoba. Prior to the August 2000 amendments to the *Manitoba Elections Finances Act*, no limits were imposed on contribution amounts. In the 2000 Canadian Election Study, nearly two thirds of respondents agreed that contribution amounts should be limited.

## Disclosure

To ensure transparency and compliance in election financing, all jurisdictions require candidates and political parties to submit reports of their contributions and expenses to the Chief Electoral Officer (or Commission on Election Financing, in New Brunswick) within a prescribed time limit. Disclosure has been an aspect of election financing provisions since 1874, when it was thought that disclosing how and where campaign funds were spent would be enough to prevent any

corruption and satisfy the public's right to know who is funding the activities of political parties and candidates. Nearly all election financing legislation across Canadian jurisdictions has included disclosure requirements.

Although disclosure requirements have expanded over time, there are several gaps in the disclosure requirements of most Canadian provinces and territories, as well as in the federal legislation. While candidates are required in all jurisdictions to submit an expenses and contributions report after each election, and political parties must complete an annual report and (with the exception of New Brunswick) an election report, other elements in the electoral process are currently unregulated. The financial transactions of campaigns for the leadership of registered parties, for example, are revealed for public scrutiny only in Ontario and British Columbia, while only six provinces require financial disclosure by the local associations of these parties. In addition, there are no provisions for the disclosure of contributions to members of the House of Commons or members of the Legislative Assemblies between elections. These omissions from disclosure requirements have been called the "Black Hole"<sup>5</sup> of election financing. In the 2000 Canadian Election Study, over 94% of respondents surveyed also agreed with full disclosure of election financing.

## Advertising and Broadcasting Time

Election advertising by political parties and candidates generally falls under the definition of an election expense (see supra) subject to the applicable spending limits, although several jurisdictions have introduced provisions governing election advertising exclusively. For example, new provisions of Manitoba's *Elections Finances Act* limit the amount political parties and candidates may spend on advertising during an election, and these limits are included in the general election expenses limits under the Act. The amendments also

TABLE 1.1

### Provisions on Election Financing

Jurisdiction	Limits on election expenses	Limits on amount contributed during a year or an election period	Regulation of third party advertising during an election period	Blackout period	Restrictions on opinion polls
Canada	x		x	x	x
Newfoundland and Labrador	x			x	
Prince Edward Island	x				
Nova Scotia	x				
New Brunswick	x	x		x	
Quebec	x	x	x	x	
Ontario	x	x		x	
Manitoba	x	x			
Saskatchewan	x				
Alberta		x			
British Columbia	x		x	x	x
Yukon Territory					
Northwest Territories*	x	x		x	
Nunavut*	x	x		x	

Source: Adapted from the *Compendium of Election Administration in Canada: A Comparative Overview*

\* Political parties do not exist in the Northwest Territories or Nunavut.



introduced annual limits in election advertising outside the election period (\$50 000).

Advertising by individuals and organizations other than candidates or political parties is also regulated at the federal level, as well as in Quebec and British Columbia. Such advertising by these “third parties” has been the subject of intense public debate and several court challenges. In principle, regulation of third party advertising is seen as necessary to provide a level playing field for all participants in the election campaign. By some, it is seen as unfair that, while candidates and political parties must adhere to spending limits, others may actively campaign in support of or in opposition to a candidate, party, or issue without abiding by any spending rules. Others see third party regulation as wholly

inconsistent with the Charter guarantees of freedom of speech and expression.

The concept of third party advertising limits first arose in 1974, with the federal *Election Expenses Act*, which banned all advertising by third parties. Subsequent court rulings and legislative amendments have struck down and resurrected federal third party advertising provisions on several occasions (see *National Citizens’ Coalition* and *Somerville*). Most recently, the new *Canada Elections Act*, which received royal assent in May 2000, re-introduced spending limits for third party advertising. This was defined as all advertising messages that promote or oppose a registered political party, candidate, or issue

with which a party or candidate is associated. Such advertising by a person or group was limited to \$3 000 in an electoral district and



The concept of third party advertising limits first arose in 1974, with the federal *Election Expenses Act*, which banned all advertising by third parties.

as being contrary to the Charter. In Quebec, provisions of the *Referendum Act* pertaining to third party advertising were brought



\$150 000 nationally, subject to adjustments. Further, the new *Canada Elections Act* contains obligatory expenses and contributions disclosure by third parties. In June 2001, the Alberta Court of Queen’s Bench struck down the spending limits imposed on third parties, but left the disclosure requirements intact (*Harper v. Attorney General of Canada*). This decision has been appealed. The Alberta Court of Appeal heard the matter on May 9, 2002.

Similarly, British Columbia introduced provisions respecting third party election advertising in 1995 (\$5 000 in an election), but they were struck down by the British Columbia Supreme Court in 2000 (*Pacific Press v. Attorney General of British Columbia*)

before the Supreme Court of Canada in 1997 (*Libman v. Quebec*). The appellant challenged the total ban on third party advertising which was introduced in the *Election Act* in 1989, and which was applicable during a referendum. Although it ruled against the referendum provisions, the Supreme Court of Canada acknowledged that limiting the spending of third party advertisers ensured a more fair and equitable election environment, and described such limits as a “highly laudable objective, intended to ensure the fairness”<sup>6</sup> of the electoral process. The *Election Act* was amended in 1998 to impose a \$300 limit on advertising expenses of third parties. In light of these rulings, legislators must now seek a balance between freedom of speech, as guaranteed by section 2 of the *Charter of Rights and Freedoms*, and a transparent, fair and equitable election financing regime.

The provincial legislature of Manitoba attempted to find such a balance during its 2000 round of election financing reform. The proposed bill included provisions that would have limited third party election advertising expenses to \$5 000 in an election period. The bill also would have required third parties that spent more than \$500 to submit a



financial report detailing all contributions and expenses made by the third party during the election campaign. While the bill was passed in August 2000, the sections respecting third party election advertising have not been proclaimed in force.

The *Canada Elections Act* is the only legislation regulating the distribution and allocation of broadcasting time to political parties. A complex formula is applied by the Broadcasting Arbitrator to apportion a base amount of time offered to political parties for purchase. Free broadcasting time is also made available to political parties by some networks, and the allocation is determined on the pro rata of the paid time allocation. With increasing use of television and radio media, the broadcasting time controls emerged as a method of ensuring fairness in access to the means of communicating with electors. The Chief Electoral Officer of Canada and the Broadcasting Arbitrator have both recommended a review of the broadcasting scheme.<sup>7</sup>

Most jurisdictions in Canada prohibit the transmission of election advertising or broadcasting during a given period, usually polling day and the day before polling day. Federally and in British Columbia, the publication of opinion polls (which may be considered an election expense) is also subject to blackout provisions. In keeping with the theme of fairness in the electoral process, such blackout periods are designed to allow all electors to enter the polling station with approximately the same information.

## Public Funding

The amendments to the *Quebec Election Act* in 1963 included a scheme to partially reimburse candidates for election expenses if they obtained a specific percentage of the vote. Similar provisions were adopted by other jurisdictions, and now all jurisdictions except Alberta, British Columbia and the three territories reimburse candidates' election expenses. In addition, partial reimbursements of election expenses to political parties, also

based on percentage of the vote obtained, have been introduced in four provinces and at the federal level. During the 2000 federal general election, a combined total of \$7 680 358 was reimbursed to political parties. All jurisdictions except Quebec and Manitoba fully reimburse a candidate's nomination deposit if reporting requirements are met.

In Prince Edward Island, New Brunswick and Quebec, political parties are entitled to further public funding in the form of annual allowances. In these provinces, parties' annual allowances are based on the number or percentage of valid votes received in the last general election.

Broader participation in the electoral process is encouraged by tax credits for political contributions, which are available in all jurisdictions. While these tax credit schemes vary from place to place, six jurisdictions use the same maximum credit calculation (for donations of more than \$550, the credit is the lesser amount of [\$325 + 33.33% of the amount over \$550]

and \$500). These public funding provisions were introduced, starting in 1963, to promote electoral participation. For more information on jurisdictional practices with respect to public funding, see table 1.2.

## Chief Electoral Officer's Recommendations

On November 27, 2001, the Chief Electoral Officer of Canada submitted a report to the Speaker of the House of Commons containing his recommendations to improve the administration of the *Canada Elections Act*. Many of these recommendations deal with election financing provisions. The recommendations aim to enhance informed choice and elector confidence by increasing the transparency of electoral financing, and to promote fairness and participation.

The Chief Electoral Officer has recommended that limits be placed on the amounts that may be contributed to political parties, candidates, local associations and nomination contestants. The proposed limit for

TABLE 1.2

### Provisions on Public Funding

Jurisdiction	Tax credit	Annual allowances to political parties	Reimbursement of election expenses	
			Political parties	Candidates
Canada	x		x	x
Newfoundland and Labrador	x			x
Prince Edward Island	x	x		x
Nova Scotia	x			x
New Brunswick	x	x		x
Quebec	x	x	x	x
Ontario	x		x	x
Manitoba	x		x	x
Saskatchewan	x		x	x
Alberta	x			
British Columbia	x			
Yukon Territory	x			
Northwest Territories*	x			
Nunavut*	x			

Source: Adapted from the *Compendium of Election Administration in Canada: A Comparative Overview*

\* Political parties do not exist in the Northwest Territories or Nunavut.

contributions from any one donor to each political party is \$50 000 annually, with an additional \$50 000 during the year of a general election. Contributions to nomination contestants, as well as general election and by-election candidates, would be limited to an aggregate of \$7 500 from any single donor for all contestants or candidates of one party. Another recommendation calls for specific spending limits on nomination contests.

It is also proposed that transparency in the electoral process be strengthened by extending the requirements for disclosure of contributions and expenses to political entities such as the local associations of political parties, the leadership campaigns of political parties and the campaigns of contestants for party nomination.

In addition, the Chief Electoral Officer of Canada has recommended that the reporting requirements for transfers of money from provincial political entities, and for indirect contributions through local associations and trust funds, should be strengthened.

Other recommendations include: lowering the eligibility threshold for candidates to receive a partial reimbursement of their election expenses from 15 percent to 5 percent of the valid votes cast in their electoral district; severing the allocation of free and paid broadcasting time so that a party's entitlement to free time is not dependent on its ability or intention to buy paid time; and public payment for a portion of each party's auditor fees.

**Further information about the Chief Electoral Officer's recommendations is provided on page 35.**



A number of steps remain to be taken to ensure the full transparency and fairness of the election financing regime.

## Conclusion

There has been a noticeable trend in election financing in Canada toward the pursuit of transparency, fairness, and participation. The importance of these aspects of electoral democracy has increased over the last several decades due to several factors, including increasing campaign costs, public demand, and the need for public confidence in the integrity of the electoral system. Since 1874, the election financing regime in Canada has undergone incremental improvement and reform. The modern system, begun in 1963, has seen the expansion and strengthening of election financing provisions.

A number of steps remain to be taken, however, to ensure the full transparency and fairness of the election financing regime. ✖

## ENDNOTES

1. Manitoba, Office of the Chief Electoral Officer. *1999 Annual Report*.
2. This limit is fixed at \$651 355.
3. Every person who: (1) has attained eighteen years of age; (2) is a Canadian citizen; (3) has been domiciled in Quebec for six months or, in the case of an elector outside Quebec, for twelve months; (4) is not under curatorship; and (5) is not deprived of election rights, pursuant to this Act or the Referendum Act (chapter C-64.1), is a qualified elector.
4. Ontario now limits annual contributions to a political party at \$7 500. Manitoba's annual limit is \$3 000 to a candidate, political party or local association.
5. William Stanbury. *Money in Politics: Financing Federal Parties and Candidates in Canada* (Royal Commission on Electoral Reform and Party Financing, Research Studies, Vol. 1).

6. *Libman v. Quebec*, [1997] 3 S.C.R.

7. Canada. *Report of the Chief Electoral Officer of Canada on the 36th General Election, 1997*.

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# Soft Money, Issue Advocacy and the U.S. Campaign Finance Law



**RICHARD BRIFFAULT**  
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**O**n March 27, 2002, President George W. Bush signed into law the most significant and comprehensive changes in United States campaign finance regulation in more than a generation. Following almost six years of contentious debate, the *Bipartisan Campaign Reform Act of 2002* addresses a broad range of campaign finance issues, including fundraising on federal property, contributions by foreign nationals, limitations on contributions to federal candidates, donations to the presidential inauguration committee, electronic filing of and Internet access to federal campaign finance reports, and penalties for the violation of federal campaign finance law. However, the heart of the Act is its regulation of “soft money” and “issue advocacy” – two campaign finance practices that blossomed in the 1990s and directly undermined the effectiveness of federal campaign finance law. The Act places new restrictions on these important developments. These restrictions, in turn, have already been challenged as unconstitutional.



This article reviews the emergence of soft money and issue advocacy in the American campaign finance system, and the new legislative response. It begins by providing a summary of the *Federal Election Campaign Act* (FECA), the Watergate era law that has regulated the financing of federal election campaigns in the United States since 1974. It then explains the development and significance of soft money and issue advocacy before considering the relevant provisions of the newly adopted federal statute. Finally, it assesses how the reform law may fare in court.

## FECA's Contribution-Expenditure Squeeze

FECA requires the full disclosure of the sources of campaign money, places limits on contributions and expenditures, and offers optional public funding for presidential candidates.<sup>1</sup> In *Buckley v. Valeo*, decided in 1976, the United States Supreme Court invalidated many of FECA's spending caps, but sustained most of the rest of the Act.<sup>2</sup> The subsequent decades witnessed the emergence of a campaign finance regime marked by sharply rising campaign costs, contribution limits that have not been adjusted for inflation, and, due to the *Buckley* decision, no spending limits. The average cost of a race for the House of Representatives rose from \$73 000 in 1976 to over \$500 000 in 1998, and the average cost of a Senate race rose from \$596 000 to \$3.8 million over the same period. In 1998, there were 104 House campaigns that cost more than \$1 million. This growth in spending is not simply a reflection of general inflation. During a period in which the consumer price index rose by 176 percent, congressional general election spending rose 667 percent. Sharply rising mass media expenses and the increasing role of new and costly campaign technologies have caused election costs to rise at a far faster rate than prices generally.<sup>3</sup>

The explosion of campaign costs occurred while limits on contributions to candidates were largely frozen at the levels set by Congress in 1974. The collision between the irresistible force of rising costs and the immovable object of frozen contribution limits has made fundraising an enormous burden for nearly all candidates. The only restrictions on financial support for candidates that have risen over the last three decades are the limits on party coordinated expenditures and public funding for presidential candidates – and even these limits have been adjusted only for inflation. With campaign expenses rising at more than three times the rate of inflation, the increases in coordinated expenditures and public funding have been inadequate to candidate needs.

The combination of sharply rising costs and fixed limits on contributions led directly to the principal campaign finance phenomena of the last three decades. In the 1970s and 1980s, political action committees (PACs) emerged as critical intermediaries for raising campaign funds and channelling them to candidates. The number of PACs rose from 608 in 1974 to 4 009 just 10 years later. More than 60 percent of PACs are sponsored by business interests; another 10 percent by labour unions. Approximately one quarter of PACs are not connected to any parent organization; these unconnected PACs generally are ideological organizations. Over the last two decades, PACs have consistently provided between one quarter and one third of the total contributions received by congressional candidates.<sup>4</sup>

The contribution-expenditure squeeze also led to the increased financing role of national party committees. Individuals and PACs may make larger donations to parties than to candidates, while the coordinated expenditure provision enables party committees to provide additional support to candidates. However, increasingly, the defining feature of party participation in the campaign finance system – and one of the most significant developments in American campaign financing – has been the rise of “soft money.”



The explosion of campaign costs occurred while limits on contributions to candidates were largely frozen at the levels set by Congress in 1974

## Soft Money

The term “soft money” is in contrast to “hard money,” that is, money that complies with the dollar amount, source limitations, and reporting requirements of FECA. Contributions and expenditures that involve express support for or opposition to federal candidates must be made with hard money, but money that is arguably for some other purpose – even though it predictably and intentionally affects federal elections – is soft money, exempt from the Act's restrictions and requirements.

Soft money emerged out of the complications of political federalism. FECA regulates only federal elections, but federal and state elections typically occur concurrently, with candidates for both federal and state offices appearing on the same ballot. Political parties may undertake campaign efforts that assist their federal and state candidates simultaneously, but only spending with respect to federal candidates must satisfy FECA. Although states have their own campaign laws, many are less restrictive

than FECA, with fewer restrictions on contributions by corporations, unions, PACs, and individuals.

During the 1980s, the parties discovered ways of using soft money to cover the non-federal share of joint federal-state campaign expenses, including administrative overhead, issues research and



polling, computer and media facilities, voter registration, get-out-the-vote operations, and fundraising. Soft money exploded in the 1990s, accounting for as much as one third of the income of the national parties in the mid-90s and 40 percent of total national party income during the 1999–2000 election cycle. The size of soft money contributions also soared. In 1997–98, there were 390 individuals or organizations – including business corporations, labour unions, Native American tribes, and ideological groups – that gave \$100 000 or more to the soft money accounts of the national political parties.<sup>5</sup> By 1999–2000, there were over one thousand \$100 000+ soft money donors, and 50 donors of \$1 million dollars or more in soft money.<sup>6</sup> With these huge donations, soft money substantially erodes the limits on donations to parties, the curbs on corporate and union treasury funds, and the limits on the use of privately provided funds in publicly funded presidential elections.

Part of the enormous growth in soft money in the mid- and late 1990s was due to the parties' discovery that they could use soft money to pay for electioneering communications. This involved a dramatic expansion of the campaign phenomenon known as "issue advocacy."

## Issue Advocacy

When it upheld FECA, the Supreme Court emphasized the need to prevent campaign finance regulation from interfering with the

discussion of political issues and ideas. The Court construed FECA to apply only to "expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office."<sup>7</sup> Such expenditures are known in campaign finance jargon as "express advocacy"; all other political communications are called "issue advocacy," although many so-called "issue ads" do not discuss issues at all.

Influenced by a critical footnote in the *Buckley* decision, most of the lower federal courts that have considered whether a particular ad constitutes express or issue advocacy have applied the so-called "magic words" test, limiting the definition of express advocacy – and the scope of FECA regulation – to communications that literally ask voters to "vote for," "elect," "cast your ballot for," "vote against," or "defeat" a candidate. Ads that praise or criticize a candidate, but do not use the magic words, are considered to be issue ads. Thus, an ad that blasts a candidate's voting record and concludes by asking the viewer to telephone the sponsor for more information – or to call the candidate criticized – are considered not to involve express advocacy. Corporate or union treasury funds may be used to pay for such ads, and FECA's reporting requirements do not apply.<sup>8</sup> As a result, both the size and the sources of the funds that pay for issue ads may be unknown.

Issue ads were originally the province of non-party groups, particularly ideological organizations. In the 1996 election, however, both major parties deployed issue ads to tout their party's presidential candidate and denounce his opponent. This enabled them to use unlimited individual, corporate and union soft money contributions to pay for electioneering ads in the ostensibly publicly funded presidential election. In the 2000 elections, an estimated – the numbers are necessarily estimates since issue ads are not subject to FECA's reporting requirements – \$500 million was spent on issue advocacy. The two major parties accounted for one third of issue advocacy spending and for nearly two thirds of such spending in the months immediately preceding the election. Six major groups (three business groups, the AFL-CIO, the National Rifle Association, and a term limits organization) accounted for another third of total issue advocacy spending.<sup>9</sup>

## The New Campaign Finance Law

The centrepiece of the new campaign finance law is a sharp restriction on soft money. Effectively after the November 2002 Congressional elections, the national committees of the political parties, federal candidates and federal officeholders will be prohibited from raising, receiving or spending soft money. The soft money ban also applies to the "federal election activity" of state and local party committees, which is defined to include: (i) voter registration activity during the period beginning four months before a regularly scheduled

federal election and running until the election; (ii) get-out-the-vote activity conducted in connection with an election in which a candidate for federal office appears on the ballot; (iii) public communications that promote or oppose a clearly identified candidate for federal office regardless of whether the communication expressly advocates a vote for or against that candidate; and (iv) state or local party employee services in connection with a federal election.

In response to the concern that soft money has had positive effects in financing voter mobilization activity and thereby increasing the election day turnout of African-American and Latino voters, the law makes one important exception to the soft money ban. Individuals will still be allowed to donate up to \$10 000 per calendar year to state and local political parties for use on voter mobilization.

Moreover, in response to the argument that the soft money ban will make it more difficult for candidates and parties to receive the funds they need to finance their campaigns, the law raises many of the hard money limits. Specifically, the law (i) increases the limit on hard money contributions by individuals to candidates from \$1 000 to \$2 000 per candidate per election; (ii) increases from \$20 000 to \$25 000 the amount an individual can donate to a national party committee in a calendar year; (iii) increases from \$5 000 to \$10 000 the amount an individual can donate to a state or local party committee for federal election activity per calendar year; and (iv) increases the aggregate limit on individual contributions from \$25 000 to \$95 000 over a two-year election cycle, although it also separately limits the total contributions an individual can make to candidates to \$37 500 over two years. These limits will, for the first time, be indexed for inflation. The Act also contains an unusual provision relaxing the limits on contributions to Senate candidates for any candidate who is running against an opponent who spends more than a threshold amount of his own personal funds on behalf of his own campaign.

With respect to issue advocacy, the law prohibits business corporations, trade associations and labour organizations from financing what the law calls “electioneering communications.” Other organizations and individuals can continue to finance electioneering communications, but any person or entity that spends in excess of \$10 000 on electioneering communications during a calendar year must file reports that disclose the identities of their principal contributors. In addition, although the law generally exempts non-for-profit corporations from the restriction on corporate electioneering communications,

it bars even non-for-profit corporations from spending more than a threshold amount on what it calls “targeted” electioneering communications; that is communications that refer to a particular legislator and are aired in the legislator’s constituency.

The law makes two efforts to define “electioneering communication”. The principal definition goes well beyond the current concept of express advocacy to include “any broadcast, cable or satellite communication” that refers to a clearly identified candidate for federal office and that is aired within 60 days of a general election or 30 days of a general election. The Act also provides a back-up definition, to take effect in case the primary definition is held unconstitutional, that drops the temporal component of the definition and focuses instead on whether the communication promotes or

opposes a candidate for federal office, regardless of whether it constitutes “express advocacy”, and “which is also suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate”. The presence of these alternatives clearly reflects legislative concern that the broader approach will not pass constitutional muster and the hope that, in that event, the narrower approach will survive a constitutional attack.

### **Campaign Finance Reform and the Constitution**

The new campaign finance law has already been hit with a constitutional challenge. In *Buckley v. Valeo*, the United States Supreme Court determined that campaign finance regulations bring into play the First Amendment’s protections of political speech and association. The Court held that campaign finance activities may be restricted to prevent corruption or the appearance of corruption, but not to equalize the spending of candidates or to equalize the influence of different voters or groups. The Court held that contribu-

tions could be restricted, in part because contributions – which involve the transmission of money from a donor to a committee or a candidate – do not entail a direct expression of political views and are, thus, a lower order of speech, and because contributions raise the possibility of a *quid pro quo* between donor and recipient and thus the possibility of corruption or the appearance of corruption. Expenditures, by contrast, were held to be the highest form of campaign finance activity because they involve direct communications to the voters. Moreover, expenditures raised no danger of corruption. Thus, limitations on the expenditures of



...the law prohibits business corporations, trade associations and labour organizations from financing what the law calls “electioneering communications.”



candidates and interest groups advocating the election or defeat of a candidate could not be limited – although they could be subject to reporting and disclosure. Finally, as previously noted, the Court held that to prevent campaign finance law from chilling other political activity, only the express advocacy of the election or defeat of a clearly identified candidate could be subject to regulation.

With one arguable exception, the Supreme Court has continued to adhere to the *Buckley* doctrine. The one exception involves the validation of pre-FECA restrictions on corporations. In 1990, the Court upheld a state law (which closely tracked a very old federal law) barring corporations from making any expenditures in support of or opposition to election candidates. The Court found that the “unique state-conferred” advantages that corporations enjoy, and the fact that corporate resources “have little or no correlation to the public’s support for a corporation’s political ideas,” create a danger of corruption sufficient to justify an absolute ban on the expenditure of corporate treasury funds in connection with an election for public office.<sup>10</sup> Although the case sustained a restriction on expenditures, the Court claimed to fit it within the *Buckley* paradigm by focusing on the special corruption danger it said was inherent in corporate spending.

How are the soft money and issue advocacy restrictions likely to fare in court? The soft money restrictions have a reasonable chance of survival.

In a 1996 case, four members of the Court suggested that FECA’s limitation on party coordinated expenditures is unconstitutional because party spending, including coordinated spending, presented no danger of a party corrupting its own candidates. Three members of the Court sidestepped the question, and the case was resolved on other grounds. When the issue returned to the Court in 2001, a five-member majority sustained the limitation on the theory that party-coordinated expenditures could serve as a conduit for donors to parties to channel support to candidates. The coordinated expenditure limit, thus, serves the purpose of preventing donors from using the parties to obtain *quid pro quos* from candidates. The same logic could be used to sustain limits on party soft money.

The most constitutionally vulnerable component of the new soft money restrictions is the provision limiting party electioneering communications that go beyond express advocacy. So, too, all of the new provisions dealing with electioneering communications are open to constitutional attack. *Buckley* stressed the need for a definition of election-related speech that is both clear and narrowly

drawn to prevent regulation of non-election-related speech. However, elections throughout the 1990s have repeatedly demonstrated that candidates, parties, and interest groups alike can effectively engage in electioneering communication while avoiding *Buckley*’s magic words of express advocacy. Several lower federal courts have rebuffed the FEC’s efforts to promulgate an express advocacy regulation which, like the first Shays-Meehan alternative, looked to “unmistakable and unambiguous meaning” in context, rather than literal words of express advocacy. But these courts considered themselves bound by *Buckley*’s brief attention to the issue a quarter century ago. The Supreme Court would not be so limited. Moreover, the Court in last year’s *Colorado*

*Republican* decision, as well as in a 2000 decision upholding a Missouri law limiting contributions in state elections, expressed increased concern about the ability of campaign finance law to effectively regulate campaign practices.<sup>11</sup> So, too, other Court decisions have indicated a greater willingness to sustain limitations on the campaign activities of business corporations – although those cases involved express advocacy and not the broader notion of “electioneering communications.”

The definition of election-related activities is a fundamental question for any campaign finance system. It is impossible to determine, based on prior decisions, how the United States Supreme Court will react to Congress’s effort to expand the definition and widen the scope of campaign finance regulation. What is certain is that the future of campaign finance regulation in the United States will turn on the outcome of the litigation.



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## The Future of Campaign Finance Law

The new restrictions on soft money and issue advocacy are not a panacea for the American political system. These reforms do nothing to address the crushing burdens of fundraising, the financial advantages enjoyed by incumbents, and the dominant role played by wealthy individuals and organized interests in the campaign finance system. Nevertheless, addressing soft money and issue advocacy is an important first step for reform. The new law defends the FECA disclosure requirements, contribution limitations, and public funding provisions already on the books and it vindicates the integrity of the federal campaign finance system. Whether the new law will pass constitutional muster, however, remains to be seen. ❧

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## ENDNOTES

1. 2 U.S.C. §§431-455. The provisions for public funding for presidential candidates are technically separate from the *Federal Election Campaign Act* and are found in the *Presidential Campaign Fund Act*, 26 U.S.C. §§9001-9012, and the *Presidential Primary Matching Account Act*, 26 U.S.C. 9031-9042. This article will use the acronym FECA to refer to both the *Federal Election Campaign Act* and the presidential public funding legislation.
2. 424 U.S. 1 (1976). In addition to striking down the expenditure limits, *Buckley* also held that FECA's provision enabling Congress to appoint some members of the new Federal Election Commission (FEC) was unconstitutional. Congress responded in 1976 by providing for a new FEC composed of six members appointed by the President, subject to the advice and consent of the Senate.
3. Association of the Bar of the City of New York, *Dollars and Democracy*, 58-59 (2000).
4. *Ibid.* at 61-65.
5. Richard Briffault, "Political Parties and Campaign Finance Reform," 100 *Colum. L. Rev.* 630-31 (2000).
6. "Top Soft Money Donors: 2000 Election Cycle," <http://www.opensecrets.org/parties/aspssofttop.asp?txtCycle=2000>
7. *Buckley v. Valeo*, 424 U.S. at 44.
8. See generally Richard Briffault, "Issue Advocacy: Redrawing the Elections/Politics Line," 77 *Tex. L. Rev.* 1751 (1999).
9. Annenberg Public Policy Center, *Issue Advertising in the 1999-2000 Election Cycle*.
10. *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 659-61 (1990). *Austin* applies only to expenditures in connection with an election for office. Corporate expenditures in connection with a referendum election may not be restricted. See *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978). In addition, contributions and expenditures by entities that are corporate in form but are created for political or ideological purposes and do not receive funds from business activities are constitutionally protected. See *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986).
11. See Richard Briffault, "Nixon v. Shrink Missouri Government PAC: The Beginning of the End of the *Buckley* Era?" 85 *Minn. L. Rev.* 1729 (2001).

# THE British *Political Parties, Elections and Referendums Act*

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In our societies, political parties are one of the principal means through which citizens participate in democratic life. As declared by the Parliamentary Assembly of the Council of Europe in May 2001,<sup>1</sup> political parties require resources and money to play this role appropriately in today's context and, in particular, to showcase their ideas in the media and present them to the public. However, it is necessary to establish some rules for party financing, to restore public confidence in the parties. We must also prevent financial contributions to parties from becoming another way for lobby groups to exert influence over elected officials and their decisions. In addition, we must guarantee equality of chances among the various parties, and regulate access to the information media, for otherwise the costs of political advertising and marketing could quickly become uncontrollable.



Somewhat surprisingly for a country that has made a major contribution to ongoing research on electoral behaviour, until the beginning of last year Great Britain had few rules to control spending by political parties during an election or referendum period. The main legislation on the subject, the *Representation of the People Act 1983*, confined itself to candidates' sources of financing in an electoral period and had no specific provisions covering third-party spending. The law was largely modelled on an 1883 statute and imposed no limits on spending during an electoral period. And for many years, Great Britain saw steady growth in party spending.

At a time when a good many Western democracies had already passed legislation on the subject, Great Britain undertook to remedy

the situation, especially since the amounts spent by political parties during elections varied significantly. The Conservative Party had large reserves at its disposal; those of the Labour Party were more modest. Consequently, members of Parliament acknowledged that certain parties had substantially more financial resources available to them than others, and hence were inclined to spend more freely during election campaigns. Members of Parliament, in effect, recognized the fact that parties with above-average monetary and non-monetary resources probably had better chances of winning elections. The new *Political Parties, Elections and Referendums Act* thus has three specific objectives: 1) ensure reasonable financing for party operations;

2) limit donations from inappropriate sources; and 3) contribute to equality of opportunity for the various parties.



... Great Britain undertook to remedy the situation, especially since the amounts spent by political parties during elections varied significantly.

## The Committee on Standards in Public Life

The first step toward passage of the new Act was the creation in 1997 of the Committee on Standards in Public Life, chaired by Lord Neill. The mandate and objectives of the Neill Committee were thought-provoking. They were to review the British legislation with the goal of controlling and reforming the existing financing systems, to ensure that parties become more responsible and transparent to those they represent, and to prevent a situation where electors' votes are inevitably cast for the parties with the biggest budgets. The Committee drew from the experience of other Western

democracies in this area, particularly current legislation in Germany, Canada, the United States and Sweden. In its November 1998 report, after extensive public consultations,

the Committee recommended limiting party expenditures during an electoral period,<sup>2</sup> including additional amounts received by the candidates themselves. It also proposed a series of changes to make the new provisions of the Act conform to those already in effect at the constituency level. The recommendations of the Neill Committee culminated in the new *Political Parties, Elections and Referendums Act*,<sup>3</sup> which came into effect on February 16, 2001.

## Principles of the new Act

### THE ELECTORAL COMMISSION

This Act affects many players in society and has many implications, especially for political parties. It provided for the establishment of an independent and impartial electoral commission,<sup>4</sup> which occurred on November 30, 2000. The House of Commons approved the nominations of the Commission's six members on January 10, 2001. The Commission, chaired by Sam Younger with Chief Executive Roger Creedon, is mandated to ensure a balance between public and private funding. It controls money collected by registered political parties and their expenditures during parliamentary or other elections.<sup>5</sup> Further, it establishes mechanisms for greater transparency in their accounting, audits their accounts and, if required, takes action against individuals or companies suspected of violating the law.



The main idea behind the creation of an electoral commission is that it is not possible to set limits on political parties' donations and expenditures unless there is an enforcement system. As envisaged by the *Political Parties, Elections and Referendums Act*, the Commission will also have to report on the conduct of any election or referendum held in the U.K. and advise the Government on any changes that it should make to the Act.<sup>6</sup> This Commission will also have substantial powers to inspect the transactions of political parties and third parties during elections and referendums. The Commission, which started its work in early 2001,<sup>7</sup> is made up of six members, of which only the Chairman is full-time. The rules governing party financing in an electoral period have been in effect since last February 16. In the months ahead, the Commission, which must be totally independent of Government, will have to devote efforts not only to its mandate, but also to modernizing the British electoral system, raising public awareness of the democratic process and encouraging the public to participate in future elections. Furthermore, it will ultimately be required to amalgamate a number of duplicated functions under the supervision of a single, non-partisan organization. It should be noted that its budget, although not controlled by any department, will be approved by the House of Commons. One matter remains to be reviewed: while this Commission is supposed to be accountable for its activities to Parliament, to prevent those activities from being influenced by the government of the day, its activities are nevertheless controlled by the Speaker's Committee, which consists of influential political figures who are Government members.

## CONTROL OF DONATIONS

No one would deny that the British political parties require considerable financial resources to develop their visibility and attract support for their ideas among citizens. While there is no question that the parties require adequate

TABLE 1

### Comparison of expenditures permitted for parties and candidates under British and Canadian electoral legislation

#### Great Britain<sup>17</sup>

Election expenditures based on number of constituencies contested.

Foreign contributions to candidates and parties strictly regulated. Only contributions from European companies and/or companies whose main place of business is Great Britain may be used to finance a party or candidate.

The source, name and address of any company or individual making a donation of £5 000 or more (no requirement to disclose the amount donated) to a party or candidate, as well as the date of receipt of the donation, must be disclosed. All amounts of £200 or more must be entered in the accounts.

There is a tradition of neutrality and independence for the press and electronic media. Paid political broadcasts are prohibited, though free political broadcasts are permitted.

No tax credit for small donations.

#### Canada<sup>18</sup>

Election expenditures based on number of registered voters and electoral districts contested.

Foreign contributions to candidates and parties (from a foreign company or association not carrying on business in Canada, a union that does not hold bargaining rights in Canada, a state or agent of a foreign state, or individual who is neither a Canadian nor a permanent resident) are prohibited.

The source, name and address of any company, individual or other contributor donating more than \$200 to a party or candidate must be disclosed.

Media not required to be either neutral or independent.

Maximum tax credit of \$500 for any annual contribution of \$1 075 or more.

funds to carry out their functions and finance their activities, as well as their election campaigns, it is also a priority for the *Political Parties, Elections and Referendums Act* to regulate private donations and party expenditures, particularly those related to the media. This is chiefly due to the fear of a good many citizens in Great Britain and elsewhere that the media are losing their independence with respect to political parties. The new Act makes it possible to combat "party corruption" and encourages greater balance between public and private funding.

The Act places stricter controls on the amount and source of contributions to political parties, to prevent them from relying almost exclusively on individual private donors. It has become clear that membership dues in recent years – the most democratic and least controversial form of party contribution – now represent only a tiny portion of the financial resources of political parties.<sup>8</sup> This is partly because a good many citizens are unhappy with the

actions of the parties they have supported in the past. For this reason, donations have become a significant source of revenue for British political parties – hence the urgency of the need for mechanisms to prevent individuals or companies from influencing the political scene through the funds they bestow upon these parties. This will help guarantee a level playing field for all political parties.

The *Political Parties, Elections and Referendums Act* prohibits political parties from accepting any donation of £5 000 or more from foreign sources. Furthermore, any anonymous donation must be refused, as well as any donation from an individual or company<sup>9</sup> that does not qualify as an eligible donor.<sup>10</sup> Finally, any company that decides to donate money or effect a sponsorship, loan or any other transaction at a rate favourable to a party must receive prior approval from its shareholders. If the directors should fail to do so, they are personally responsible for paying

compensation or damages if the unauthorized funding should prove prejudicial to the company in question. Finally, any monetary or non-monetary funding collected so as to conceal the identity of the donor will be considered fraudulent and subject to penalties under the Act.

The Act also provides for the annual disclosure of citizens' donations<sup>11</sup> to political parties in amounts greater than £5 000 at the national level or £1 000 at the constituency level, including donations in kind.<sup>12</sup> In addition, the use of blind trusts to finance political parties through party leaders, members of Parliament or parliamentary candidates is prohibited. Political parties must submit their accounts to the public through the Electoral Commission. Responsibility for having accepted financing from an unauthorized source falls upon the party that benefited from the financing. Parties will have to satisfy themselves that donors, individuals or companies meet the conditions required to finance their activities.

However, there is one major change to be noted. Direct funding received by British political parties (that is, "Short money"<sup>13</sup> and "Cranborne money"<sup>14</sup>) to support their parliamentary functions will be increased, to encourage parties to depend less on a small number of sizeable donations, generally from large corporations. The direct funding provides for the research assistance needs of the Cabinet and shadow cabinet and supports the Leader of the Opposition, his or her chief of staff, and staff. The parties in power and in opposition will also have access to the Policy Development Fund and may continue to benefit from the free broadcast of certain



Political parties must submit their accounts to the public through the Electoral Commission.

programs and free flying time. One interesting aspect of the Act concerns the provisions adopted by the Neill Committee on the advertising expenses of these parties (print publication, production and broadcasting of partisan programming, posters, etc.). The Government and the Neill Committee agreed to maintain the ban on the broadcast of paid political programming on radio and television. The new Act also applies to the new electronic media. It therefore reinforces the importance of the political neutrality of the media in the U.K.

### CONTROL OF EXPENDITURES

While no one can deny the importance of funding sources for political parties, the

*Political Parties, Elections and Referendums Act* could not fail to pay particular attention to the ways in which money is spent during an election or referendum period. It has, therefore, set limits on authorized expenditures during election campaigns, for otherwise parties would be constantly driven to intensify their fundraising.

The Act adopts a number of provisions for limiting the rapid growth in spending that has characterized the last four general elections in the U.K. For example, it imposes limits on candidates' expenditures in their respective constituencies, but also on the parties' expenditures at the national level during an election campaign.<sup>15</sup> The crucial concept implicit here is that the fewer disparities there are in the spending of the various parties, the fairer the election will be. The imposition of spending limits on British political parties will thus serve to deal with electoral corruption and prevent certain parties with sizeable financial

TABLE 2

### Comparison of financing of the main political parties during the last British general elections held on June 7, 2001

	Conservative Party	Labour Party
Total financing	£1.5 million + donation of £5 million from Sir Paul Getty	£2 million, including £1.1 million from trade unions
"Short money"	£ 295 159 in public funds	
Other major contributions	£200 000 from Robert Fleming Holding Ltd. £29 000 from the Carlton Club £25 000 from Mike Batt, the musical composer used for the Tory campaign £22 474 from the president of Dixons £10 000 from the Tower Casino group	£500 000 from the electricians' union, the AEEU £400 000 from Usdaw £335 125 from the GMB union £125 000 from the president of Ispat International £100 000 from Christopher Ondaatje, the supermarket giant £100 000 from Martin Slowe Estates Ltd. £28 150 from the RMT union £20 000 from the Granada group £12 000 from Tim Waterstone, president of the HMV group



resources (such as the Labour Party, the Liberal Democrats or the Conservative Party) from inevitably winning the majority of seats in legislative elections. These measures should also help prevent certain parties from spending exorbitant amounts, thereby obliging their competitors to solicit ever more funding from wealthy individuals or large corporations who are “buying” influence. The new Act should also put a stop to any repetition of the undisclosed donation of gifts to political parties that was seen when John Major was leader of the Conservatives.

The Act should, therefore, curb the power of any party to “buy” votes during elections thanks to the size of its budget. The objective is, in fact, to ensure that the financing of political parties is totally transparent. To that end, all parties will have to keep strict records of all receipts and expenditures, which must be submitted at least once a year to the Electoral Commission. The Commission will audit the accounts and, if necessary, make them public. It will also institute deterrent penalties and publish the identity of donors whose financial assistance exceeds a certain limit. Once the Electoral Commission has sufficient proof that a party has exceeded its spending limit, it will refer the matter to the courts for an order of confiscation of the donations in question. The confiscated monies will be deposited in the consolidated fund. All other persons who knowingly ignore the rules on the origin of donations will be liable to criminal prosecution and the case will be referred to the police, who will take the necessary action.

With regard to the extending of tax advantages for donations or membership dues, the British Government rejected proposals for the adoption of tax relief of up to £500, as proposed by the Committee on Standards in Public Life. The Government’s argument was that the state should not

intervene in any way, and that this type of mechanism, which indirectly encourages more substantial private financing (since such provisions make citizens more inclined to donate money to parties), is contrary to the British approach.

### Guiding principles of the new Act with respect to referendums

The *Political Parties, Elections and Referendums Act* raises for the first time the issue of the financing of political parties during referendum periods. The Act guarantees that no political party, whether in power or not, can be favoured during the holding of a referendum. It also addresses the issues of whether the government of the day should play a promotional role in the campaign, whether citizens should be authorized to finance groups participating in the campaign and, where applicable, whether limits should be set on the financing of their campaigns and how those limits should be calculated.

As to party financing during referendum periods, the recommendations of the Neill Committee were based on the conviction that both sides of a referendum campaign must have the same opportunities to present their views to the public. Secondly, the Committee wanted to ensure that referendum campaigns could not be biased by the intervention of the Government. Similarly, the Neill Committee suggested a series of changes designed to limit the spending of parties and other organizations participating in these referendums so as to

prevent some parties from getting more public attention than others because of their more ample resources. Hitherto, the main referendums held in Britain were subject to a variety of parliamentary measures, since no legislation existed on the subject.

The *Political Parties, Elections and Referendums Act*, therefore,

provides for greater transparency in the financing of referendum campaigns and proposes much the same rules as apply to the financing of political parties during elections, as explained earlier.<sup>16</sup> The Act requires organizations and individuals participating in a referendum campaign to disclose all donations of £5000 or more, and prohibits acceptance of any donation from an unauthorized source. No individual or entity may donate more than £10000 for a referendum campaign. The Act further imposes a limit of £5 million for each of the

two groups in such a campaign. When an individual or authorized party receives £250 000 or more during a referendum period, that person or party must prepare an expenditure report.

Secondly, the Act prescribes that the party in power and members of the Government may obviously present their arguments as they see fit, but may not use taxpayers’ money or the machinery of government to promote their ideas. Finally, the Act forbids the government of the day from publishing any document pertaining to the referendum within the period starting 28 days before the vote. These measures will help prevent the Government from using large sums of taxpayer money to influence citizens.



The Act should, therefore, curb the power of any party to “buy” votes during elections thanks to the size of its budget.

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## Conclusion

The new *Political Parties, Elections and Referendums Act* can be expected to have a major impact on how companies, unions, lobby groups and foreign interests are able to affect the results of general elections and, ultimately, government decisions. It will help prevent elections from being almost exclusively influenced by large amounts of cash from individual companies or interests, particularly foreign ones. It will enable the parties engaged in the election campaign to compete in a political arena that is more fair and equitable by virtue of the very fact that they will have to win support from an electoral base that is more diverse than ever before.

With the passage of the *Political Parties, Elections and Referendums Act*, the United Kingdom joins other European countries that have legislated on party financing during electoral or referendum periods. ✖

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## ENDNOTES

1. Parliamentary Assembly, Council of Europe, *Financing of Political Parties*, Report of the Political Affairs Committee, Document 9077, 4 May 2001: [http://stars.coe.fr/doc/doc01/EDOC9077.htm#\\_ftnref78](http://stars.coe.fr/doc/doc01/EDOC9077.htm#_ftnref78).
2. This amount was recently set at nearly £20 million per year by the government for any party with a candidate standing in every constituency of the United Kingdom. Otherwise, the amount is £30 000 per contested constituency.
3. The content of this Act is similar to that of the *Canada Elections Act*, which is designed to (1) limit the expenditures of candidates and parties in an election period; (2) control contributions – and their amounts – made by companies and individuals; (3) control the publication and posting of advertising in an election campaign; and (4) control the amounts spent by parties during a fiscal year and the amounts and origin of contributions to them.
4. The activities of the Electoral Commission will be controlled by the Speaker of the House of Commons, the Home Secretary, the Minister for Local Government, the Chairman of the Home Affairs Select Committee and five members of the House of Commons designated by the Speaker of the House (the Speaker's Committee). These officials will oversee the exercise of the Electoral Commission's functions and approve its budget and a comprehensive five-year plan. The Electoral Commission and Speaker's Committee will be annually accountable for their work to the House of Commons.
5. The authority of the Electoral Commission extends to control of election expenditures not only during British legislative elections, but also European Parliamentary elections, Scottish parliamentary general elections, National Assembly for Wales ordinary elections or Northern Ireland Assembly general elections.
6. Other commissions of this type exist in certain Commonwealth countries. For example, Australia has an electoral commission, which offers independent services to electors and encourages them to take part in elections.
7. This Commission is entirely independent from Government, and directly accountable to Parliament. In effect, the Commission's goal is to ensure a certain transparency in political parties' financing. As was the case in Canada at the time of the Royal Commission on Electoral Reform and Party Financing chaired by Pierre Lortie, growth in election expenses remains at the heart of the new British Commission's concerns.
8. The dues collected by the British Labour Party represented only about 25% of its total annual receipts in 1997, compared with over 50% in 1992 (Fifth Report of the Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, Vol. 1 (Cm 4057-1), p. 30).
9. By an eligible individual or company is meant: individuals registered in electoral registers in the United Kingdom; companies registered in the United Kingdom or other countries of the European Union, provided they carry on business in the United Kingdom; registered political parties; trade unions, friendly societies, and any other unincorporated association that carries on business or other activities in the U.K. and whose main office is there (section 48(2) of the *Political Parties, Elections and Referendums Bill*).
10. The new British Act is much more "tolerant" in this regard than legislation adopted in the United States, Canada and most European countries, in that in those countries foreign donations are inevitably prohibited. Studies done in the early nineties in Great Britain have shown that the largest donations have come, not from companies incorporated in Great Britain, or even expatriates living outside the country, but from heads of major foreign corporations. This no doubt explains the British approach on this subject.
11. It should be noted that there are major differences of judgment among the countries that have such legislation about the limit of the amounts that must be disclosed. Canada appears to be the country with the smallest limit, followed by the United States, Greece, Italy, France and lastly Germany (Martin Linton, *Money and Votes*, p. 80). France, for example, has capped permissible donations at 50 000 French francs per year per donor and at 30 000 francs for electoral campaigns; the cap in Belgium is 20 000 Belgian francs per year per donor for any one party and a maximum of 80 000 francs for all parties; in Spain, 10 million pesetas per year per donor. It should be noted, however, that many European countries still have no legislation limiting donations to political parties, among them Austria, Switzerland, the Netherlands, the Czech Republic and Denmark.
12. The term "donation" has been specifically defined as including any gift, whether of money or property; any fee paid for membership in or affiliation to a party; any money spent by a third party to pay any expenses directly or indirectly incurred by a party; any money lent to a party otherwise than on commercial terms; or any property, services or facilities for its use or benefit, and/or any type of sponsorship. However, the term excludes the advantages that already accrue to candidates in elections, such as the franking privilege for mailing their literature during legislative and European elections, use of public buildings such as schools for holding meetings, free broadcasting of certain programs, or free flight time. Yet this is relative, since the United Kingdom has traditionally been perceived as a country that is mistrustful of public financing of political parties.
13. "Short money" is a kind of indirect state assistance to parliamentary parties. This type of financing was introduced in 1975. Three quarters of the amount released in each parliamentary cycle is directed to the Opposition (Office of the Leader of the Opposition, the shadow cabinet (i.e. the counterparts of the Government ministers) and the other parties of the Opposition in the exercise of their parliamentary functions).

14. "Cranborne money" was introduced in 1996. The amount of this assistance has recently increased. See *The Funding of Political Parties in the United Kingdom*, The Government's proposals for legislation in response to the Fifth Report of the Committee on Standards in Public Life, Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty, July 1999, paragraphs 6.6 and following.
15. The new Act limits party expenditures for all types of elections in Great Britain. In brief, it limits spending by any party to £30 000 per contested constituency in the U.K. It further provides that the annual expenditures of any registered party may not exceed £793 500 in England, £108 000 in Scotland, £60 000 in Wales and £27 000 in Northern Ireland for any general parliamentary election. It also provides that expenditures of each registered party for European Parliamentary elections may not exceed £159 750 in England, £18 000 in Scotland, £11 259 in Wales, and £6 750 in Northern Ireland.
16. A good many of the Act's provisions appear to anticipate the upcoming referendum on the Euro.

17. National general election.
18. (Legislative) federal election.

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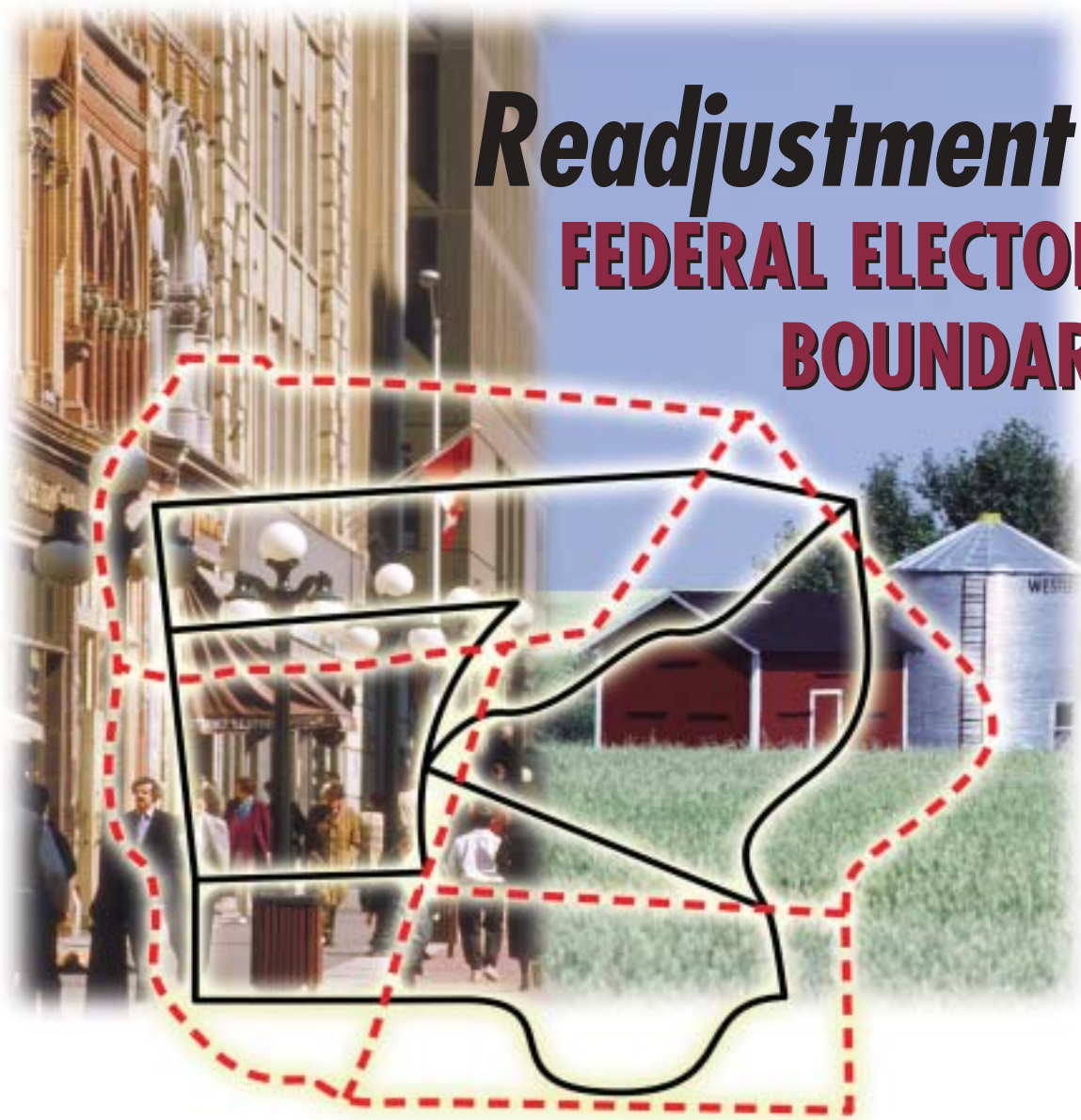
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# Readjustment of FEDERAL ELECTORAL BOUNDARIES



The process of readjusting federal electoral district boundaries to reflect changes and movements in Canada's population has begun. The readjustment (often referred to as "redistribution" and sometimes, particularly in other countries, as "redistricting") takes place, in accordance with the *Constitution Act, 1867*, after each 10-year census. This time, the process began when the Chief Electoral Officer received the 2001 census return from the Chief Statistician of Canada on March 12, 2002. The rules for carrying out this complex project are laid down in the *Electoral Boundaries Readjustment Act* (E.B.R.A.), R.S.C. 1985, c. E-3, as amended.

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ASSISTANT DIRECTOR, PARLIAMENTARY  
REPRESENTATION, ELECTIONS CANADA



To remove the process from any political interference, completely independent commissions carry out the task of readjusting electoral boundaries. Under the provisions of the E.B.R.A., Elections Canada provides a variety of professional, technical, administrative and financial services to the commissions. Each province has its own three-member boundaries commission, consisting of a judge designated by the Chief Justice of the province to head the commission, and two other members appointed by the Speaker of the House of Commons. As the Yukon, Northwest and Nunavut territories each constitute one electoral district, they do not require electoral boundaries commissions.

After a series of public hearings and not later than one year after the receipt of the certified return of the Chief Statistician, each commission issues a report outlining whatever boundary changes it considers necessary. Once objections from members of Parliament (channelled through a parliamentary committee) have been dealt with by the commissions, the Chief Electoral Officer transmits a draft representation order, based on the commission recommendations, to the Minister designated for the purposes of the E.B.R.A. The draft representation order stipulates the number of members of the House of Commons for each province and divides each province into electoral districts. It also describes the boundaries of each district and specifies its population and name. Furthermore, it is important to note that the district boundaries used for federal elections in Ontario are also adopted for use in provincial elections in Ontario.

The projected schedule for the next redistribution indicates that a new representation order could be proclaimed as early as 2003. The representation order will come into force with the first dissolution of Parliament to occur at least one year after that proclamation. Therefore, any federal general election called more than one year after the proclamation would be conducted using the boundaries and electoral district names in the new representation order. The time frame is dependent upon when the commissions complete their work and when the appropriate committee of the House of Commons completes its disposition of any objections raised.

## The Process of Readjustment

The following explains the main stages in the readjustment of federal electoral boundaries. The relevant sections of the E.B.R.A. are mentioned at each step.

### 1. ALLOCATION OF SEATS E.B.R.A., SECTIONS 13 AND 14

The redistribution process begins after each 10-year census, when the Chief Statistician of Canada sends the certified census return to the Chief Electoral Officer of Canada and the Minister designated for the purposes of the E.B.R.A. The return gives population data for each province, broken down by electoral districts and enumeration areas.

## The Representation Formula

The calculation for apportioning seats to the provinces (in accordance with the *Constitution Act, 1867*) is carried out in four steps:

### 1 ALLOCATION TO THE TERRITORIES

Starting with the 282 seats that the House of Commons of Canada had in 1985, when the formula was last amended, three seats are allocated to the territories, leaving 279 seats. This number is used to calculate the electoral quotient.

### 2 CALCULATING THE ELECTORAL QUOTIENT

The total population of the 10 provinces is divided by 279 (the number obtained after allocating seats to the territories) to obtain the electoral quotient, which is used to determine the number of seats for each province.

### 3 DISTRIBUTING THE SEATS TO EACH PROVINCE

The theoretical number of seats to be allocated to each province in the House of Commons is calculated by dividing the total population of each province by the quotient obtained in step 2. If the result leaves a remainder higher than 0.50, the number of seats is rounded up to the next whole number.

### 4 ADJUSTMENTS

After the theoretical number of seats per province is obtained, adjustments are made in a process referred to as applying the "senatorial clause" and "grandfather clause".

The senatorial clause guarantees that no province will have fewer seats in the House of Commons than it has in the Senate. The grandfather clause guarantees that no province will have fewer seats than it received in 1976 (or had during the 33rd Parliament, when the *Representation Act, 1985* was passed).

Using the census information and the formula in sections 51 and 51A of the *Constitution Act, 1867*, the Chief Electoral Officer calculates the number of seats to be allocated to each province and publishes the results in the *Canada Gazette*.

### 2. ESTABLISHMENT OF COMMISSIONS E.B.R.A., SECTIONS 3-6, 13, 15 AND 20

Within 60 days from the time that the Chief Statistician of Canada supplies the population data to the Government and to the Chief Electoral Officer, the 10 electoral boundaries commissions must be established and charged with fixing the boundaries of new electoral districts.

The chairs of the boundaries commissions for each province are selected by the Chief Justice of each province and the other two members are chosen and appointed by the Speaker of the House of Commons. The commissions are officially established by the Governor in Council (Cabinet).

After receiving maps and documentation on the relevant population data from the most recent decennial census from the Chief Electoral Officer of Canada, the commissions have one year to make proposals, hold public hearings and finalize their reports. From the guidelines in the E.B.R.A., it is evident that the readjustment exercise is not simply a mathematical computation, but rather a delicate balancing act that must take into account human interests as well as geographic characteristics.

The commissions are charged with dividing the province assigned to them into a specified number of electoral districts. The population of each electoral district is to correspond “as close[ly] as [is] reasonably possible” (s.15 E.B.R.A) to a predetermined average

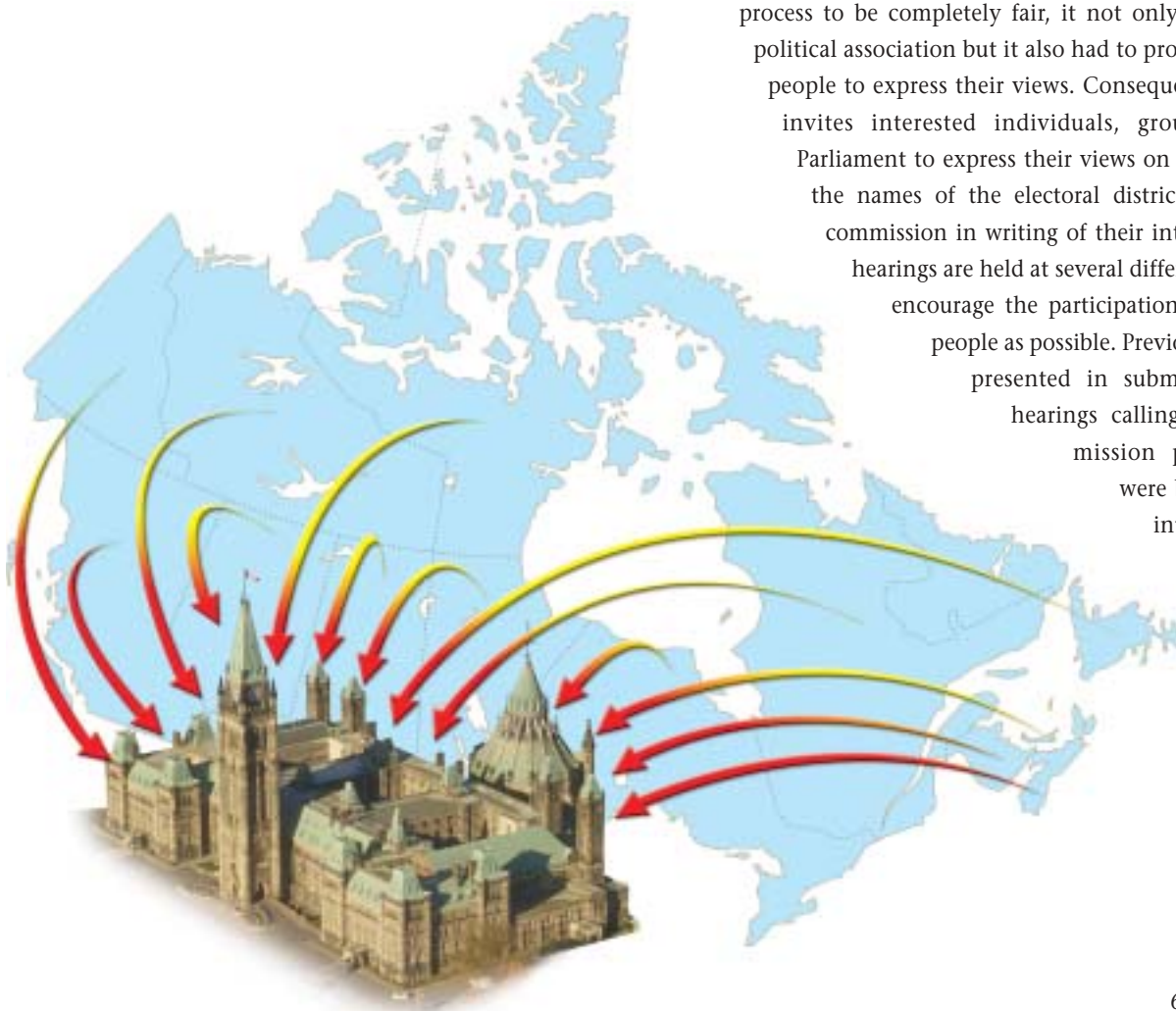
or quotient obtained by dividing the total population of the province by the number of electoral districts to be created in that province, as calculated by the Chief Electoral Officer at the beginning of the process. But, in fixing the electoral district boundaries, they must take into consideration “the community of interest or community of identity in or the historical pattern of an electoral district ... and a manageable geographic size for districts in sparsely populated, rural or northern regions ....”

To accommodate these human and geographic factors, the commissions are allowed to deviate from the average population figure when setting their boundaries. While generally restricted to a tolerance of 25 percent either way, a commission may exceed this limit “in circumstances viewed by the commission as being extraordinary.”

### 3. PUBLIC PARTICIPATION E.B.R.A., SECTION 19

When they first laid down the rules for readjusting federal electoral boundaries in 1964, members of Parliament realized that, for the process to be completely fair, it not only had to be free of any political association but it also had to provide an opportunity for people to express their views. Consequently, each commission invites interested individuals, groups and members of Parliament to express their views on its proposals (including the names of the electoral districts), after notifying the commission in writing of their intention to do so. Public hearings are held at several different locations chosen to encourage the participation of as many interested people as possible. Previously, “of the arguments presented in submissions and at public hearings calling for changes in commission proposals, 50 percent were based on community of interest, 18 percent on historic grounds, and 12–15 percent on the basis of geography.”<sup>1</sup>

Newspaper advertisements, showing maps of the electoral boundaries proposed by the commissions, as well as the times and locations of public hearings, are published at least 60 days before the first hearing is scheduled.



Canadians are represented in the House of Commons on a geographic basis. An elector's vote is tied to his or her place of residence in an electoral district.

A commission must hold at least one public hearing before completing its report.

It is recognized that members of Parliament will invariably have strong views on both the names and boundaries of the proposed electoral districts. Therefore, not only are members of Parliament allowed to appear before a commission at the public hearings, but the legislation also provides an additional opportunity for them to object to the proposals of any of the boundaries commissions when the reports are tabled in the House of Commons (s. 22, 23 E.B.R.A.).

#### 4. COMPLETION OF REPORTS

##### E.B.R.A., SECTION 20

No later than one year after receiving the population data, each commission must complete its report on the new electoral districts.

The Chief Electoral Officer of Canada may grant an extension of up to six months when necessary.

#### 5. PARTICIPATION BY MPs

##### E.B.R.A., SECTION 21 AND SUBSECTIONS 22(1), (2)

Each commission's report is sent through the Chief Electoral Officer of Canada to the Speaker of the House of Commons, who must ensure that it is tabled and referred to the committee designated to deal with electoral matters.

Written objections, each signed by at least 10 members of the House of Commons, may be filed with the committee within 30 days of the tabling of a report.

The committee has 30 sitting days to discuss any objections to a report and return it to the Speaker of the House of Commons.

#### 6. RESULTS OF PARLIAMENTARY REVIEW SENT TO THE COMMISSIONS

##### E.B.R.A., SUBSECTION 22(3) AND SECTION 23

The reports are then returned to the commissions, accompanied by the minutes of the House of Commons committee. The commissions then decide whether to modify their reports. They must consider any objections, but are not obliged to make any changes as a result. In all cases, the final decisions as to where the boundary lines will be fixed rest with each commission.

#### 7. NEW REPRESENTATION ORDER

##### E.B.R.A., SECTIONS 24 TO 27

The Chief Electoral Officer of Canada drafts a document called a representation order, describing and naming the electoral districts established by the commissions, and sends the document to the designated Minister.

Within five days after the receipt by the Minister of the draft representation order, the Governor in Council shall publicly

TABLE 1

#### Present Number of Federal Electoral Districts per Province and Territory

British Columbia	34
Alberta	26
Saskatchewan	14
Manitoba	14
Ontario	103
Quebec	75
New Brunswick	10
Nova Scotia	11
Prince Edward Island	4
Newfoundland and Labrador	7
Yukon Territory	1
Northwest Territories	1
Nunavut	1
TOTAL	301

announce the new boundaries in a proclamation. The representation order and the proclamation declaring it to be in force shall be published in the *Canada Gazette* within five days from the issue of the proclamation.

The new boundaries cannot be used at an election until at least one year has passed between the date the representation order was proclaimed and the date that Parliament is dissolved for a general election.

#### Current Representation Order

The current representation order was proclaimed on January 8, 1996, and took effect at the dissolution of Parliament on April 27, 1997, for the 36th general election. It increased the number of seats in the House of Commons from 295 to 301, with four additional seats for Ontario and two additional seats for British Columbia, largely due to population growth in those provinces. The upcoming redistribution will add seven more seats, including three in Ontario, two in Alberta and two in British Columbia.

**Additional information on the readjustment process can be found on Elections Canada's Web site ([www.elections.ca](http://www.elections.ca)).** 🌐

#### ENDNOTE

1. John C. Courtney, *Commissioned Ridings, Designing Canada's Electoral Districts*, McGill-Queen's University Press, 2001, p. 208.

# Choice of an ELECTORAL SYSTEM

**Recent  
developments  
and increasing  
dialogue in  
Canada**



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**O**n November 27, 2000, in polling stations throughout each of the 301 electoral districts across the nation, Canadian electors faced lists of candidates for their electoral districts. Voters marked a ballot to indicate their choice among the candidates, some of whom were identified on the ballot as nominated by a registered political party, some who were identified as independents, and others with no political affiliation. The process for determining the results of a federal election is set out in the *Canada Elections Act*.

At the close of the polls in the electoral district, the deputy returning officer and poll clerk in each polling station began the process of counting the votes cast by electors during the day. After they finished counting the votes in their respective polling stations, the deputy returning officers each filled out a Statement of the Vote, which was subsequently sent to the returning officer.



From these Statements of the Vote, the returning officer tallied the votes obtained by candidates throughout the electoral district. Once the votes were tabulated, the returning officer completed the writ, declaring the candidate who obtained the greatest number of votes to have been elected. In essence, this is a single-member plurality system, also known as first-past-the-post (FPTP), and has been used for federal elections in Canada since Confederation.

While most Canadian electors have cast a ballot at a federal election at one time or another, a recent IPSOS-Reid survey commissioned by the Institute for Research on Public Policy (IRPP) has, nevertheless, demonstrated low levels of knowledge among the Canadian electorate about the system used to elect members to the House of Commons. For instance, in this survey, carried out in April 2001 among 1 000 electors across the country, half of the respondents believed that a candidate had to obtain over 50 percent of the votes cast in an electoral district to win the election. Similarly, 47 percent of respondents believed that, to form the government, a party had to get a minimum of 50 percent of the national vote.

In the context of this generally low level of knowledge, there has been increasing movement in the past year towards beginning an informed debate on the choice of an electoral system, and towards seeking an alternative to FPTP. This increased interest has manifested itself in coverage by the media, studies by and the introduction of bills in provincial legislatures and Parliament, strategizing by components of the civil society, argumentation by academics in the field of political science, and the filing of a court application challenging the constitutionality of FPTP. Some noteworthy developments in the past year with respect to the choice of an electoral system in Canada are outlined below.

In the House of Commons, a private member's bill, Bill C-322, was introduced and read for the first time on March 29, 2001, in the first session of the 37th Parliament. This bill proposes that a committee of the House study the issue of choosing an electoral system and prepare a report. Subsequent to the tabling of this report, the bill proposes a national referendum on a specific alternative to FPTP, before or concurrently with the next general election.

This bill is the latest in a series of private member's bills addressing the choice of an electoral system. Other private member's bills promoting alternatives to FPTP have died on the order paper at the dissolution of sessions of Parliament since the 1993 general election. That particular general election marked the beginning of a new era of representational regionalism in Canada, which has fuelled debate on changing Canada's electoral system.

On the provincial scene, during hearings held by the Prince Edward Island Legislative Assembly's Special Committee on the *Election Act*, seven of the fifteen presentations made to the Special Committee promoted the establishment and/or further examination of the implementation of a system of proportional representation for that province. The Special Committee was

established by the legislature on June 9, 2000, to undertake a review of the *Election Act* in light of concerns expressed by Islanders following the province's 61st general election.

In its final report, tabled before the Legislative Assembly on April 27, 2001, the Special Committee recommended that Elections PEI commence as soon as possible a review of the systems of proportional representation now existing in other jurisdictions. The Special Committee recommended that after this review, Elections PEI make a report on its findings to the Speaker of the Legislative Assembly, who would then table the report in the House.

Moreover, the Special Committee suggested that, after members examine this report by Elections PEI, Islanders be broadly consulted on a specific system or systems. The Special Committee noted that "this approach [would] ensure that Islanders have ample opportunity for meaningful input into the way in which they return members to the Legislative Assembly to represent their interests."

The past year has also been characterized by increased advocacy of alternatives to FPTP by components of the civil society. Fair Vote Canada, created on August 1, 2000, has undertaken a campaign to focus public discussion on reviewing Canada's electoral system. This non-partisan, membership-based organization



Photo: Wayne Brown

Some opponents of the first-past-the-post system contend that it fails to provide equal voting power to all electors.



Canada's House of Commons, Ottawa.

has devised a campaign strategy to mobilize public support for the implementation of a more proportional system of representation in Canada. The organization has undertaken to:

- capture the attention of both the public and the media;
- sustain a civic dialogue and an open, objective education process;
- create a climate where change is perceived as possible and desirable, and then inevitable; and
- conclude with a meaningful consultative process in which Canadian citizens themselves decide upon the appropriate reforms through a national referendum.

This campaign was launched at a national conference held in Ottawa on March 30 and 31, 2001, entitled "Making Votes Count". The conference was intended for information sharing, consultation, discussion and feedback.

Another non-partisan organization, the Mouvement pour une démocratie nouvelle,

has focused on the issue of choice of an electoral system in the province of Quebec. The association recently began a petition to request that the National Assembly review the issue and hold public hearings on reforming the electoral system to implement one based on proportional representation.

At another conference held in Ottawa on May 2 and 3, 2001, academics and other interested individuals were invited by the IRPP to discuss the choice of an electoral system. During the course of the "Votes and Seats" conference, many panellists argued that the Canadian FPTP system has broken down, due to the inability of the system to deliver on the promise of a consolidation of the vote in favour of a clearly identifiable alternative to the government. According to these panellists, this failure is attributable to the fact that there is fragmentation of the opposition in Canada along linguistic and regional lines. Further, some panellists argued that FPTP leads to disproportionality between the votes cast for each political party, and the number of seats the parties occupy in the House of Commons.

While some of the panellists conceded that the fact that a political party can obtain a majority of the seats with a minority of the votes leads to more stable governments, they also maintained that this is not necessarily a desirable result. These participants contended that disproportionality, and the "artificial" support for the government thereby obtained, leads to less government accountability.

Other panellists focused their arguments against FPTP on academic studies that suggest women, Aboriginal electors and other geographically dispersed minority groups are more likely to be under-represented in a legislature elected through FPTP than through a more proportional system of representation. Papers presented at the conference by academics and other panellists were published in the July-August 2001 issue of the IRPP's journal, *Policy Options*. During the course of the deliberations, the Executive Director of the Law Commission of Canada noted that the Commission would soon be putting the issue of electoral reform on its agenda, and that it would make subsequent recommendations to

Parliament. On September 7, the Commission and Fair Vote Canada announced a partnership to examine voting system reform. They said they would study the experiences of other countries and hold a constituencies forum to solicit public input and develop a strategic plan. More information can be obtained by choosing *Electoral Reform* on the Commission's Web site.

At the time that the IRPP conference was underway in Ottawa, a notice of application was filed in the Ontario Superior Court of Justice in Toronto by the Green Party of Canada and its former leader, Ms. Joan Russow. Through this application, in which the Attorney General of Canada and the Chief Electoral Officer are named as respondents, the applicants challenge the use of FPTP in federal elections on the grounds that it violates rights guaranteed to Canadians under the *Charter of Rights and Freedoms*.

Three arguments are put forward by the applicants in the *Russow* case. The first of these centres on the contention that in instituting FPTP, the *Canada Elections Act* does not guarantee equal and effective representation, contrary to section 3 of the Charter, which guarantees the right to vote. The applicants argue that FPTP fails to provide parity of voting power or effective representation to the large number of Canadian electors who support national parties that do not win an election, and whose supporters are not concentrated in one region of the country.

In support of this allegation, the applicants note that, while receiving approximately the same number of votes as the Reform Party and the Bloc Québécois at the 1993 general election, the Progressive Conservative Party elected only two members. The two other parties obtained 54 and 52 seats respectively. The applicants contend that the deviation in terms of votes required to be elected led to under-representation for supporters of the Progressive Conservatives to the tune of 2 226 percent.

The second line of argument used by the applicants to challenge FPTP centres on the

allegation that this electoral system increases the under-representation of women, Aboriginal people and other regionally dispersed minorities, contrary to section 15 of the Charter, which guarantees to every Canadian the right to equality. The applicants argue that since Parliament is the fundamental social institution of the greatest importance in Canada, the inequality engendered by FPTP is a profound affront to the dignity of the groups who are under-represented under its application.

Finally, the applicants argue that FPTP also infringes equality rights guaranteed under section 15 of the Charter because it affords discriminatory treatment to supporters of small nationally based parties, such as the Green Party of Canada. This party has never elected a member of Parliament, despite having support in many electoral districts across the country. According to the applicants, this differential treatment is substantive discrimination because it interferes with the freedom of individuals to express and find representation for their public values and beliefs.

The applicants are requesting that the sections of the *Canada Elections Act* instituting a FPTP system for federal elections be declared unconstitutional, pursuant to sections 3 and 15 of the Charter, and therefore null and void by application of section 52 of the Constitution. However, the applicants also request a suspension of this declaration for a period of two years to allow Parliament sufficient time to study alternatives with a view to selecting the more proportional model that is most suitable to Canada's constitutional traditions and political needs.

At the time this article was written, a hearing date had not yet been set for this application. Moreover, the Attorney General of Canada had not yet filed a factum, and it was not known what position the Government would take on the application.

While the Chief Electoral Officer of Canada was named as a respondent in the *Russow* application, his Office has not taken a formal

position on the issue. It is the Chief Electoral Officer's mandate to administer the provisions of the *Canada Elections Act* as adopted by Parliament, and as interpreted by the courts. The choice of an electoral system is an issue that must be left for Canadians to decide.

Clearly, dissemination of information on the various options will result in more informed discussions. The choice of an electoral system is fundamental to the democratic process, and ensuring that Canadians understand the current process, as well as the characteristics of other options, is desirable. It was with this objective in mind that the choice of an electoral system was addressed at the June 23, 1999, meeting of the Chief Electoral Officer's Advisory Committee of Political Parties. During this session, three Canadian political scientists were invited to present papers to the representatives from the registered political parties. Summaries of the three papers appeared in the first issue of *Electoral Insight* (Vol. 1, No. 1, June 1999), and are accessible on Elections Canada's Web site at [www.elections.ca](http://www.elections.ca). ❧

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[www.lcc.gc.ca](http://www.lcc.gc.ca)



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# Thérèse Casgrain

## Suffragist, First Female Party Leader, and Senator



Top photo: Yousuf Karsh / National Archives of Canada PA-178177

Bottom photo: National Archives of Canada PA-126768  
Used by permission of Renée Casgrain Nadeau

*Thérèse Casgrain led the suffrage campaign in Quebec and became the first woman elected leader of a political party in Canada. In 1970, at the age of 74, she was appointed to the Senate of Canada. Casgrain would serve for only nine months, because of the upper chamber's mandatory retirement age of 75.*

**WAYNE BROWN**  
CO-EDITOR, ELECTORAL INSIGHT,  
ELECTIONS CANADA

**F**or almost 20 years, Thérèse Casgrain campaigned to get women in Quebec the right to vote in provincial elections. The legislation finally passed on a spring day in 1940, marking a new era for the women of Quebec. A decade later (only 50 years ago), Casgrain became the first woman to be elected leader of a political party in Canada. While her name is not as well-recognized today as those of many women who would follow as members of Parliament and legislatures, party leaders, cabinet ministers and heads of state, she achieved her breakthroughs in a conservative era when women rarely played any public role. Casgrain would also raise four children and campaign persistently to correct many social injustices. At the age of 74, she would be appointed to the Senate of Canada.



*"Today women do not have to face the same difficulties as of old; they can make their influence more widely felt and they are listened to a little more, but a world in which men and women are completely equal is still far from being realized. All my life I have recommended that one must ask questions, take a position, and act upon it."*

– Thérèse Casgrain,  
in her autobiography, 1972

## Raised in Affluence

Thérèse Casgrain was born in Montreal on July 10, 1896, the daughter of Lady Blanche MacDonald and Sir Rodolphe Forget, an eminent financier and Conservative politician who was said to be one of the richest men in Montreal at the turn of the century. Thérèse would have a long life: 85 years. Since she was born into a wealthy family, it could also have easily been a leisurely life. As True Davidson wrote in *The Golden Strings*, "Thérèse Forget grew up in a family which took for granted a governess and subsequent boarding-school education, a pony-cart, velvet evening dresses and pearls, a sixteen-bedroom summer home at Saint-Irénée, a few miles from the Manoir Richelieu, visits to Paris, and numerous servants. But Sir Rodolphe Forget was apparently a philanthropist with many progressive ideas for his community." His daughter would attend the best of convent schools. She studied music, languages and home management, but when she wanted to pursue a law

degree, her father decreed that her proper place was in the kitchen.

While still a young woman, Thérèse displayed a strong, self-confident, humorous personality; one that challenged realities that seemed wrong to her and that liked to lead. Author Susan Mann Trofimenkoff ("Thérèse Casgrain and the CCF in Quebec") explains that Thérèse "certainly objected to the ceaseless round of entertainment and frivolity that she observed among her social peers. And she also measured her distance from the Catholic church: she was, she claimed, less obedient than other women in the early feminist movement."

As a débutante, while serving at an annual oyster supper to raise funds for the Deaf and Dumb Institute, she renewed her acquaintance with Pierre Casgrain, a young lawyer whom she had met years earlier, when she was a schoolgirl. Davidson reports further that "his courtship seems now to have been rapid and exciting, though strictly chaperoned, as was the custom then. They were married in January 1916, and honeymooned in Cuba. There the young bride, with a thoughtfulness not common in her age and social group, again pondered on the extreme contrasts of riches and poverty side by side, and wondered what would come of such injustice." That concern, combined with her serious and independent nature, may best explain why a woman born to affluence would proceed to battle steadfastly against an indifferent and ultra-conservative society, not only for women's rights, but for social reforms that benefited both men and women alike.



**It was her first political speech, and it occurred in the first federal election at which women could vote and be candidates.**

## At Her Husband's Side

Thérèse Casgrain's father had served as an Independent Conservative member of Parliament for 13 years, but decided not to run again in the federal election of December 1917. He had voted against his government's conscription law, a law that was widely opposed in Quebec and was dividing the country. Instead, his son-in-law, Thérèse's husband Pierre, campaigned for the Charlevoix seat. He chose to run as a Liberal, supporting Sir Wilfrid Laurier and opposing conscription. The winter weather was very bad during the campaign, but Thérèse staunchly accompanied her successful husband, just as her mother had done with her father.

Pierre Casgrain's second election campaign in 1921 was a lot more difficult. He was competing against a Cabinet minister. Early in the campaign, he became very ill with pleurisy and could not speak at a large rally of supporters. His wife courageously took his place, something rarely, if ever, done by women in Canada at that time. It was her first political speech, and it occurred in the first federal election at which women could vote and be candidates. Pierre Casgrain won again. He went on to become Speaker of the House of Commons in 1936 and Secretary of State in Mackenzie King's early wartime Cabinet. The Casgrains were frequent guests at the Prime Minister's Ottawa home. Those visits, the debates of the House of Commons, which she listened to as often as possible, and social functions as wife of the Speaker gave Mme. Casgrain many opportunities to increase her knowledge of politics and government in Canada.

## Leading the Suffrage Campaign in Quebec

In 1918, Parliament granted all Canadian women at least 21 years of age the right to vote in federal elections, provided they were not alien-born and met property



*Thérèse and Pierre Casgrain were frequent guests of Prime Minister William Lyon Mackenzie King at his Laurier House home in Ottawa. Thérèse left King's Liberal Party to join the Co-operative Commonwealth Federation (CCF) in 1946, two years before the end of King's last term as Canada's longest-serving prime minister. King, who was prime minister for 21 years, is shown here casting his ballot in the 1942 national plebiscite on conscription.*

requirements in the provinces that had such rules. In the next year, women also became eligible to stand for election to Parliament. But Quebec women could not cast ballots in provincial elections. The *Constitutional Act, 1791* had established a legislative assembly in Lower Canada and allowed the right to vote to all persons possessing certain property qualifications. But, in 1843, a law enacted by the Parliament of the recently united Province of Canada took that right away, because some men feared their authority would be diminished if women could play active roles in public affairs.

For many years after Confederation, the few attempts to obtain the provincial right to vote for Quebec women were made largely by English-speaking women. Recognizing that the province had a French-speaking majority, Quebec women formed a bilingual association in 1921, with Casgrain as one of the founders. The association pledged itself to "an educational campaign to persuade the

public and the legislature that women do not wish to have the vote in order to change their sphere in life, but rather to raise and improve the level of society in general." It would take almost two decades to obtain the provincial franchise.

In the winter of 1922, a delegation of about 400 went to Quebec City to ask the provincial government to give the vote to women. The government offered almost no hope, and Casgrain later heard that Liberal premier Alexandre Taschereau privately said, "If the women of Quebec ever get the right to vote, they will not have got it from me." There was also almost no support from the powerful clergy. The women decided to make sure that a bill supporting female suffrage was introduced at every session of the legislature, and each year a different member of the Legislative Assembly introduced one.

But the feminist groups themselves were divided, until a provincial franchise

committee was formed in 1928, with Casgrain elected as its president. It was subsequently incorporated under the name *La Ligue des Droits de la Femme*, since the women were also interested in obtaining many domestic, social and legal reforms. There was little support for suffrage from rural French women, so Casgrain reached them by speaking at conventions and through her popular radio program "Fémina". She would head the *Ligue* for more than 14 years. In the later years of that period, Union Nationale premier Maurice Duplessis was adamantly opposed to women obtaining the provincial franchise.

The women launched many fund-raising efforts for publicity campaigns. Meanwhile, several female suffrage bills were defeated in the legislature. But finally, some real progress began to be made. While out of power in the late 1930s, the Liberals started to show interest in votes for women. They received a great deal of support from women as they regained power in 1939, and the new premier, Adélard Godbout, included a women's suffrage bill in the Speech from the Throne. On April 25, 1940, the legislature finally passed this bill, and women obtained the right to vote in Quebec's provincial elections.

## Her First Personal Election Campaign

In a 1942 federal by-election, Mme. Casgrain was the Independent Liberal candidate in the Charlevoix-Saguenay riding, the seat held earlier by both her father and husband. She had to campaign across a riding almost 700 miles in length, but thought her family's connections in the riding would ensure her victory. Instead, she finished second. Earlier that year, like most residents of Quebec, she had voted "non" to the military conscription plebiscite question put forward by King's Liberal government, and she continued to speak out against compulsory service overseas. She received almost no assistance from prominent Liberals with whom she had associated for more than 20 years. "I very

quickly realized that the leaders of the Liberal party, both federal and provincial, did not want me as a member," said Casgrain. "Not only was I a woman, but they knew that if I were elected they would not be able to make me accept ideas I had already rejected."

## Casgrain and the CCF

In 1946, Mme. Casgrain joined the Co-operative Commonwealth Federation (CCF). Perhaps the most intriguing question about her career is why a wealthy and well-connected upper-class French-Canadian woman would choose to take an active role in a small socialist party that had originated in western Canada. Trofimenkoff notes that Casgrain had grown disillusioned with the Liberals.

For example, she had hoped that Prime Minister Mackenzie King would appoint one of the "Five Persons" as the first woman to serve in Canada's Senate. After all, the five Alberta women, now known as the "Famous Five", were the ones who challenged the traditional view that only a man could be a "person" and only qualified "persons" could be appointed to the Senate. They finally won their fight when the Judicial Committee of Britain's Privy



Casgrain organized a flood of protests that reached King's office.

Council, Canada's highest court in those days, agreed that Canadian women were indeed "persons", eligible for appointment to the Senate and participation in enacting the country's laws. However, the first woman to be appointed to Canada's Upper Chamber was Cairine Wilson, a Liberal Party activist.

Casgrain also appears to have greatly admired the CCF leader, J.S. Woodsworth, and Agnes Macphail, the first woman elected to Parliament (in 1921) as one of a group of independents who sat together as the

Progressives. (For more on Macphail and the Progressives, see the November 1999 issue of *Electoral Insight*.) The CCF favoured universal, state-organized and state-financed social welfare programs and Trofimenkoff reports that Casgrain saw the CCF as the party that most shared her concerns about unemployment, poor health, education and housing, and low wages for women. In her autobiography, Casgrain herself explained her switch of parties by saying she "had long seen how badly Canada needed a political party centred upon the common good rather than on the promotion of personal interests."

Perhaps the final straw that pushed Casgrain away from the Liberal fold was another event in 1945. The government was getting ready to send out the first family allowance cheques. They would be addressed to mothers in most of Canada, but to fathers in Quebec. Why the difference? Putting money in the hands of Quebec mothers supposedly would undermine paternal authority in the family, as sanctioned by tradition and the province's Civil Code. Casgrain organized a flood of protests that reached King's office. She succeeded in changing his mind, but a year later she joined the CCF.

## First Woman Leader of a Political Party in Canada

In 1948, Mme. Casgrain was chosen one of the national vice-chairs of the CCF, the only woman on its executive. When elected leader of the Quebec wing in 1951, Casgrain became the first woman in Canadian history to head a political party. Strangely perhaps, she was not even present at the convention that chose her. She was in Frankfurt, Germany, representing the CCF

at an international rally of socialist movements. In 1955, the provincial party's name was changed to Parti social démocratique du Québec, a name that more clearly indicated the party's objectives and was more easily translatable. Casgrain served as its provincial leader until 1957.

In her memoirs, Casgrain says the CCF had "great difficulty establishing itself in the province of Quebec, in large part because of the power of the Catholic Church." The Church suspected the CCF was actually a communist movement. The party had only about 300 members in the province and very little chance of any success at the polls there. As Casgrain wrote, "Our élite in those days failed in their duty. Many remarkable men who in their hearts were radicals and reformers sacrificed their ideals to their careers rather than suffer the repeated defeats of a new party." She added, "It was not very easy to work for a party that was under merciless attack from those in power, without election funds, and faced with an ill-informed public opinion." Over the years, Casgrain herself would contest eight federal and provincial elections as a CCF candidate. But she realistically noted that, "As a woman, and the leader of a party of the left to boot, I had no chance of success. However, I attained my goal, which was, above all, to make the CCF philosophy more widely known and to obtain publicity for the party."

John Diefenbaker's Progressive Conservatives swept the federal election of 1958. After another poor showing by the CCF, its leaders and their labour colleagues decided a new party was needed. So conventions of the Canadian Labour Congress and the CCF each passed a resolution calling for the creation of a broadly based political movement embracing the CCF, the labour movement, farm organizations, professional people and other liberally minded persons interested in basic social reform and reconstruction through the parliamentary system of government. Thérèse Casgrain chaired

the CCF convention, in Regina, that approved the resolution. Three years later the New Democratic Party (NDP) was founded and Tommy Douglas, former premier of Saskatchewan, became its leader.

## Recognition as a Leader

In 1961, Mme. Casgrain founded the Quebec branch of the Voice of Women, a movement dedicated to world peace. In subsequent years, she was its delegate to many international conferences. In 1969, she became president of the Canadian Consumers Association for Quebec. In 1967, the National Council of Jewish Women of Canada awarded Thérèse Casgrain its medal as the “Woman of the Century” for Quebec. During the same year, she was appointed Officer of the Order of Canada, and in 1974, she was made Companion of the Order. In 1979, in recognition of her tireless leadership of the struggle for women’s right to vote in Quebec, she was a recipient of the Governor General’s Award in Commemoration of the Persons Case.



Casgrain accepted the position because she believed it would give her a greater opportunity to work for her goals and country.

## Senator Casgrain

At the age of 74, Mme. Casgrain was surprised to receive a telephone call from Prime Minister Pierre Elliott Trudeau. He offered her a seat in the Senate. It would be only for a few months, because five years earlier Parliament had passed a law requiring senators to retire from the Upper House when they reached their 75th birthday. Casgrain accepted the position because

she believed it would give her a greater opportunity to work for her goals and country. On October 8, 1970, Casgrain was sworn in as a senator and chose to sit as an independent, because her colleagues in the CCF and the NDP had always refused to take such an appointment, unless the Senate was greatly reformed first.

Within days, one of Canada’s most frightening events occurred. The British Trade Commissioner in Montreal, James Cross, and

Quebec’s Labour Minister, Pierre Laporte, were kidnapped. Then came the startling news that Laporte had been murdered. In her first speech in the Senate, Casgrain expressed full approval for Trudeau’s action in proclaiming the controversial *War Measures Act*. Later, Casgrain travelled to several cities across the country as part of the Senate-House of Commons Committee on the Constitution, to ask Canadians how the *British North America Act* could best be amended or patriated. When the report of the Royal Commission on the Status of Women was tabled in Parliament, she pleaded for all ministers to be responsible for making the improvements that fell under their

departmental jurisdiction, but that role was given to the Secretary of State for Urban Affairs.

In the Senate, Casgrain pursued other causes long close to her heart. She reminded her colleagues that, in Quebec, unlike most provinces, women were still not eligible to serve on juries. A few months later, Quebec dropped that rule. Casgrain also strongly opposed certain agricultural controls, such as those on the price of eggs, which she was sure

would greatly encourage black market sales. She also criticized the media for being more interested in the scandals of the day than in writing about serious economic issues, which she felt could have educated the public and sped the passage of needed reforms.

Casgrain would be a senator for just nine months, until July of 1971, when she was forced to retire. She would have preferred to continue and began to work against compulsory retirement from any job. She continued to campaign actively for Canadian charities and consumer rights.

Thérèse Casgrain died in Montreal on November 3, 1981, at the age of 85. Perhaps the best summation of her life and achievements is the one in the introduction to her autobiography. Long-time colleague Professor Frank Scott wrote, “Those who know that continuous reform is essential and possible in our parliamentary system, will recognize that Thérèse Casgrain has made a great personal contribution to Canadian democracy.” ✕

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# Electoral News in Brief

## CHANGE TO TAX FORMS AGREEMENT TO ADD MORE ELECTORS TO VOTERS LISTS

It is now easier for new electors to add their names to the National Register of Electors. As the result of a May 2001 change to the existing agreement between Elections Canada and the Canada Customs and Revenue Agency (CCRA), starting this year Canadian citizens are able to indicate on their income tax forms their consent to be added to the Register.

The National Register of Electors is a database of Canadians who are qualified to vote, maintained by Elections Canada. It contains basic information about each elector – name, address, gender and date of birth. Canadians may choose whether to have their names listed in the Register. The information in the Register is used to produce the preliminary voters lists for federal elections, by-elections and referendums. It may also be used to produce voters lists for provinces, territories, municipalities and school boards that have signed agreements with Elections Canada, as permitted by the *Canada Elections Act* and provincial statutes.

This change to the agreement with the CCRA continues an already successful collaboration. The previous agreement between Elections Canada and Revenue Canada (CCRA's predecessor) in 1997 resulted in a consent box on tax forms that electors could check to have their name and address information forwarded to Elections Canada to update their existing records in the Register. This initiative was a resounding success – some 84 percent of tax filers in the 2000 tax year consented to the transfer of their information to update the Register. CCRA data have been instrumental in updating elector records to reflect moves that have occurred since the general election of 1997 when the Register was established.

Despite this success, it became clear that the Register's coverage of electors – and particularly of young voters – could be improved if new names could also be added from tax information, using an active consent initiative. Elections Canada wrote to some

550 000 18-year-olds during the springs of 1999 and 2000, asking their consent to be added to the Register; however, a disappointingly low 25 percent responded. An evaluation of the mail-outs conducted in the summer of 2000 revealed, among other things, that many 18-year-olds mistakenly believed that they had been automatically added to the Register because they consented on their tax returns to have their information transferred to Elections Canada.

Following the November 2000 general election, consultations took place with the CCRA and the Privacy Commissioner of Canada to amend the authorization question on the tax form and the Elections Canada section in the tax guide. As a result of these changes, consenting Canadian tax filers who are already in the Register and whose name or address information has changed will have their records updated, while those who are not already in the Register will be added to it. The Elections Canada information page in the tax guide has been updated to reflect the changes.

It is anticipated that this new agreement will result in the addition of some 275 000 new electors per year, of which some 225 000 will be young electors. It is important to note that, as always, tax filers who do not consent to the transfer of their personal information still retain their right to vote in federal elections or referendums.

## THE CHIEF ELECTORAL OFFICER'S RECOMMENDATIONS TO PARLIAMENT

The *Canada Elections Act* calls for the Chief Electoral Officer to make a report to the Speaker of the House of Commons after every general election, proposing amendments that he considers desirable for the better administration of the Act. On November 27, 2001, exactly one year after the 37th general election, Chief Electoral Officer Jean-Pierre Kingsley submitted 75 recommendations to Parliament. The recommendations would improve transparency in election financing by increasing disclosure obligations and extending them to electoral district associations, and party nomination and leadership contests. Limits are recommended on all political contributions, other than to leadership contests, and on spending in party nomination contests. The recommendations also propose greater simplicity and clarity in the party and broadcasting systems under the Act, and a more modern and effective nomination process.

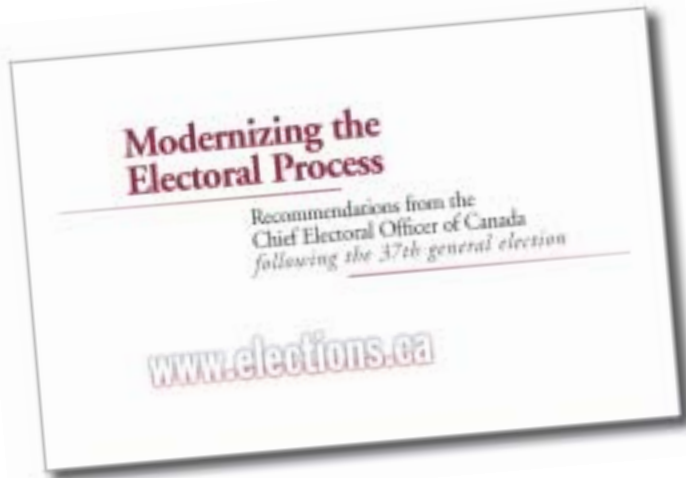
The Chief Electoral Officer explained that a number of recommendations in his report flow from the right of Canadians to know who is financing the political process in Canada. "This is essential for an informed vote and for maintaining the trust of Canadians in the integrity of the process and their continued participation in it," he stated. "Money counts, in politics as it does most everywhere else."

Among the major financial recommendations is a proposal that there should be a reporting obligation where a local electoral district association, which is associated with a party required to file financial reports, has financial transactions. The person who is authorized by the association to carry out those transactions should be required to report those transactions annually to the Chief Electoral Officer. Electoral district associations play a significant role in the electoral process, but are currently only partially subject to disclosure. Also recommended are requirements that contributions and expenses related



Photo: Wayne Brown

The change to the agreement between Elections Canada and the Canada Customs and Revenue Agency will facilitate youth registration and participation in the federal electoral process.



to contests for party endorsement or leadership be reported and published in the same manner as contributions to a candidate at an election campaign. At present, donations made to any contestant for the nomination of his or her party remain undisclosed. So too, are those to contestants for the leadership of their parties. "Let the sun shine on contributions and on expenditures by leadership candidates," stated Mr. Kingsley. The reporting and publishing requirements would apply to all candidates for party endorsement or leadership, regardless of the success of their campaigns.

The Chief Electoral Officer has also recommended that limits be placed on the contributions made to registered and eligible parties, electoral district associations, and candidates. Annual contributions would be restricted to \$50 000 to each party and \$7 500 aggregate to all electoral district associations of a party, from any single donor. Additional contributions would be permitted during the year of a general election at similar limits. In party nomination contests at the local riding level, contributions would be limited to \$7 500 aggregate to all contestants of a party from any single donor. A similar limit would apply to contributions from a donor to each candidate at a general election or by-election, with an aggregate limit of \$7 500 to all candidates of each party.

To further increase the transparency of election financing at the federal level, Mr. Kingsley recommended tightening the requirements for reporting the donations. The Act would be amended to make it an offence to make a contribution in a manner intended to hide the identity of the original source. All transfers made from provincial political entities to registered and eligible parties, to local electoral district associations of a registered or eligible party, or to a candidate would also be required to be fully reported to the Chief Electoral Officer.

The report to Parliament also proposes that there should be only two types of political parties under the *Canada Elections Act* – eligible parties and registered parties. The definition of eligible parties would be simplified to include all organizations that exist as political parties, that comply with the administrative requirements of the Act, and that have, in a general election, between 1 and 49 confirmed candidates for election to the House of Commons. A registered party would continue to be one that meets all administrative requirements and that endorses at least 50 candidates in a general election. All eligible and registered parties would be entitled to the same rights and subject to the same obligations (including disclosure and reporting), except for rights to public funding and

free broadcasting time, which would be restricted to registered parties. This would include giving eligible parties the same rights as registered parties respecting access to annual and final lists of electors, and to provide that the list for a district should be distributed to all registered and eligible parties on request whether or not they had run a candidate in that district in the last election. Spending limits for an eligible party would be determined in the same manner as spending limits for a registered party. Implementation of these recommendations would facilitate the emergence of new parties, correct existing inequities among parties and compel more complete financial disclosure by eligible parties. Party organizations that do not wish to be, or are not eligible to be, treated as political parties under the Act would fall under the third party regime.

Mr. Kingsley has also proposed that the threshold for candidates to be qualified for reimbursement of their expenses from the public purse should be reduced from 15 percent to 5 percent of the valid votes cast in their electoral district. This could result in a broader national participation, as it would improve access to public funding for new parties' candidates.

Another recommendation calls for the elimination from the nomination process of the requirement for prospective candidates to obtain the signatures of 100 electors (or, in sparsely populated electoral districts, 50 signatures). The change would reduce the administrative burden on a prospective candidate.

Also recommended is that the *Canada Elections Act* provide a means for a ballot to be declined, recorded, and reported as such in the official results in a way which is consistent with the principle of the secrecy of the vote. Several provinces and one territory already have such provisions.

Some of the recommendations seek to improve the management of the administrative processes involved in conducting elections. Among them is the proposal that the Chief Electoral Officer appoint returning officers for a 10-year term, on the basis of merit. Returning officers are now appointed by the Governor in Council. "This change would address the concern, often expressed by candidates, about this process and erase any perception that the appointees are not politically neutral," Mr. Kingsley stated. It would be implemented gradually, as present returning officers die, resign, reach the end of their terms, or when electoral district boundaries change. It has also been recommended that the Act be amended to remove the requirement for returning officers to solicit names from the candidates for potential deputy returning officers, poll clerks and registration officers, and from the registered parties when hiring revising agents.

The communication of ideas is vital to the electoral process, but the present system is not wholly effective in ensuring adequate broadcast access for political views during an election. Therefore, Mr. Kingsley has also proposed major revisions to the electoral broadcasting scheme, by recommending that the existing interrelationship between paid time and free time be severed. This would remove the need for registered parties that have no intention or ability to buy paid time to participate in a paid time allocation exercise. Only registered parties would have the right to free broadcasting time. Each registered party would have the right to buy up to 100 minutes of paid time per station, subject to its election expenses limit. In addition, 60 minutes of free time, divided equally among all registered parties requesting it, would be provided by all television stations (not just networks) that broadcast news or public affairs programming, and by all news/talk radio stations and specialty television stations focusing on news or public affairs.

Other proposals are intended to improve the ability of electors to ensure that they are properly registered in order to be able to vote. When another source of information has confirmed the eligibility of an elector, it should not be necessary for the elector to produce a signed certification of his or her eligibility in order to be added to the National Register of Electors under s. 49 of the *Canada Elections Act*. It should be possible to establish eligibility through any evidence, or combination of evidence, which is reasonably capable of establishing age and citizenship. This change would maximize the ability of electors to register. Elections Canada is currently studying the feasibility of enabling electors to confirm and update their registration information securely over the Internet. The Chief Electoral Officer is also seeking greater flexibility in notifying electors that they are registered and where they should go to vote. Notices advising electors of their registration could be sent to electors as soon as the writs are issued, and information about the location of polling stations could be sent later after the sites are confirmed.

More detailed information about the Chief Electoral Officer's recommendations can be found in his report to Parliament, entitled *Modernizing the Electoral Process*. The report is available on the Elections Canada Web site ([www.elections.ca](http://www.elections.ca)), where it can be viewed on-line or downloaded in PDF format and printed. A printed version can be obtained by clicking on "Publications" and using the on-line order form.

## ADVISORY COMMITTEE OF POLITICAL PARTIES

The Advisory Committee of Political Parties, which is chaired by the Chief Electoral Officer, has met four times since January 2001, making a total of 15 sessions since its inception in 1998. Its members include representatives of the registered and eligible parties. The committee discusses possible administrative and legislative changes to the electoral system. It also serves as a forum for the parties to bring forward their concerns and for the Chief Electoral Officer to keep them abreast of developments in the evolution of the electoral process.

During the February 9, 2001 session, the political parties shared their views on the conduct of the 37th general election, which was administered under the new *Canada Elections Act*, and suggested how the administration of elections in Canada could be improved. Three main topics were considered: voter registration, parties and candidates, and the voting process.

At the June 1 and October 4, 2001 sessions, the Chief Electoral Officer led discussion about the subjects and recommendations being considered for inclusion in his November report to Parliament. Issues discussed included nomination of candidates, allocation of broadcasting time, status of eligible parties, and election financing. On December 7, 2001, the Committee discussed the Chief Electoral Officer's report, the system for updating the National Register of Electors and the readjustment of electoral district boundaries.

## AMENDMENTS TO THE CANADA ELECTIONS ACT

Amendments to the *Canada Elections Act* came into force on October 5, 2001, allowing some candidates whose parties are not registered to list a political affiliation on federal election ballots. The changes, which were tabled in the House of Commons and the

Senate as Bill C-9, received royal assent on June 14, 2001. The legislation responds to a ruling in the summer of 2000 by the Ontario Court of Appeal.

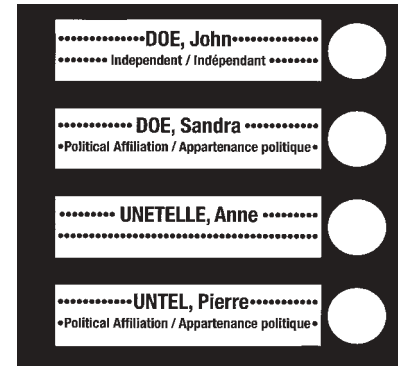
Previously, only the names of registered political parties could appear on federal election ballots. For registered status, a party was required to endorse confirmed candidates in at least 50 electoral districts in a general election. The Act now allows any political party that is eligible for

registration and supports at least 12 confirmed candidates in a general election to show its name on the ballots in those electoral districts. In choosing 12 as the new threshold, the Government reasoned that for almost 40 years a political party with 12 members of Parliament has been recognized as an official party in the House of Commons.

As before, in a by-election, only the parties that supported sufficient candidates at the preceding general election (previously 50, now 12) can appear on the ballot. Candidates of a political party created after a general election may not indicate their political affiliation on by-election ballots.

Bill C-9 was introduced in February 2001 by the Leader of the Government in the House of Commons, the Honourable Don Boudria, following an August 2000 ruling of the Ontario Court of Appeal in *Figueroa v. Canada (Attorney General)*. Miguel Figueroa is the leader of the Communist Party of Canada, which had been registered under the *Canada Elections Act* since party registration began in 1974. During the 1993 federal general election, that party lost its status as a registered party, and all of the associated benefits, because it failed to meet the provision of the Act requiring the nomination of 50 candidates. The Court struck down the provisions of the *Canada Elections Act* confining the right to indicate political affiliation on the ballot to candidates of registered parties with 50 nominated candidates. It decided that limiting identification of political affiliation to registered parties infringed on the right to vote guaranteed by section 3 of the *Canadian Charter of Rights and Freedoms*, which includes the right of all electors to vote in full knowledge of the facts. In the Court's opinion, the political affiliation of a candidate is basic information needed by electors to cast an informed vote.

In explaining Bill C-9, Mr. Boudria stated that the Government would amend the *Canada Elections Act* to comply with the ruling of the Ontario Court of Appeal and its requirement that Parliament do so by August 16 of last year. As for setting the new threshold at 12 candidates, he stated, "In our parliamentary tradition, 12 MPs is already a significant number, since it takes 12 MPs in the House of Commons to form a political grouping under the House rules." The Senate passed Bill C-9 without amending it, but in its report the Senate's Standing Committee on Legal and Constitutional Affairs noted some concerns the Chief Electoral Officer had expressed to it during a May 30, 2001 appearance. Jean-Pierre Kingsley referred to the Court's statement that voters have the right to know the political affiliation of the candidate. "I believe a single candidate representing a political party at a by-election should be allowed to have his or her political affiliation on the ballot, provided the party has fulfilled the requirements of the Act. It follows logically



Sample ballot. Many real ballots could in the future contain more party names, as a result of the amended legislation.

that a single candidate representing a political party at a general election should also be allowed to have his or her political affiliation on the ballot, provided the party has fulfilled the requirements of the Act." Mr. Kingsley added that to qualify as a party, any group is still required to have a registered leader, an official agent and an auditor, and to submit regular reports to the Chief Electoral Officer.

Mr. Kingsley also explained that the C-9 changes would not alter the financial benefits that are available only to parties that support at least 50 candidates in a general election. Those benefits include the right to issue tax receipts, the right to reimbursement of a percentage of election expenses, the right to receive excess funds from candidates, the right to participate fully in the allocation of time provided by broadcasters to registered parties (during prime time at preferential rates for the transmission of political announcements) and the right to receive the final voters lists. The Ontario Court of Appeal agreed that these benefits can reasonably be reserved for political parties that demonstrate a certain level of commitment, and that the condition of supporting 50 candidates is a reasonable yardstick for assessing such commitment. Some elements of the Court's decision that relate to the issue of the benefits reserved for parties that support at least 50 candidates are the subject of an appeal to the Supreme Court of Canada.

Passage of C-9 also brought several other changes to the *Canada Elections Act*. The approval of the appropriate committee of the Senate has been added to the requirement that the Chief Electoral Officer seek approval from the appropriate committee of the House of Commons before carrying out studies on alternative means of voting, such as electronic voting. As well, the blackout provisions of the Act are harmonized to reflect that the blackout period for election advertising and publishing the results of election opinion surveys was reduced to polling day with the earlier passage of Bill C-2 in 2000. Meanwhile, the *Electoral Boundaries Readjustment Act* was amended to refer to 10 electoral boundaries commissions, one for each province, rather than the previous 11 commissions. Since the Northwest Territories was divided into two territories, each with one electoral district, a boundaries commission for it is no longer required.

## COMPENDIUM OF ELECTION ADMINISTRATION

Elections Canada has released, on its Web site, the 2001 edition of the *Compendium of Election Administration in Canada*. The *Compendium* is a comparative analysis of election legislation at the federal, provincial and territorial levels in Canada. It is prepared annually for the Conference of Canadian Election Officials, and was last updated for the July 2001 conference in Charlottetown, Prince Edward Island. Also available on the Web site is the *Comparative Overview*, first compiled in 2001, which provides a comprehensive summary of the *Compendium* through texts and tables.

These publications cover the full range of electoral topics, including the process of readjusting electoral district boundaries, the registration of electors, the voting process and the nomination and registration of candidates. There is also information about political parties, local associations and third parties, election financing, and referendums, plebiscites, recalls and initiatives. As well, both publications include election and referendum statistics and a summary of major recent court cases dealing with electoral law.

Both the *Compendium* and the *Comparative Overview* may be viewed on the Elections Canada Web site ([www.elections.ca](http://www.elections.ca)). Only the *Comparative Overview* is available in paper format, and is accompanied by a CD-ROM version of the *Compendium*. Copies can be ordered on-line ([www.elections.ca](http://www.elections.ca)) or by calling 1 800 463-6868.

## ELECTIONS CANADA WINS MAPPING AWARD

Elections Canada won an important award from ESRI Inc. at the 21st Annual ESRI International User Conference in San Diego, California, held in July 2001. Established in 1984, ESRI Canada is a Canadian-owned company specializing in Geographic Information Systems (GIS) products and services. More than 10 000 people attended the conference, the largest gathering of GIS professionals in the world.

Elections Canada was recognized at the conference with a third-place award in the Best Software Integration category of the Map Gallery competition, in which hundreds of ESRI users displayed their maps. Entries were judged primarily for their ability to demonstrate creative and relevant integration of the many products in the ESRI software family with third-party products, to complete geographical analysis and to create maps.

Maurice Bastarache, Associate Director, Geography, at Elections Canada, is pleased with this award and proud of the Geography staff who pushed the technology to find innovative ways to produce electoral maps. Mr. Bastarache also mentioned that "ESRI's GIS products helped us to provide geographic support for the national election within a very short time frame and with significant savings in cost."

Elections Canada's presentation included a map depicting the distribution of Canadian federal electoral districts. It also described the creation of a mass-production system for maps and reports covering the entire country to support the 2000 general election. The system allowed Elections Canada to create and print more than 65 000 different electoral maps in various formats and scales, as well as over 137 000 pages of descriptive reports, such as polling division descriptions and poll keys. The production of these documents was completed in a period of just 10 weeks.



Shown with the Elections Canada map presented at the ESRI conference are project manager Jose Santos, former Elections Canada cartographer Philippe Palmer and Associate Director, Register and Geography, Maurice Bastarache.

Photo: Deborah Orlowski



The ESRI software enabled the creation of distinct map designs to fit the needs of each electoral district. The various map formats produced included the overview map for each electoral district, cell maps, which are magnified portions of the overview, municipality maps for electoral districts with more than one municipality, and polling division maps, as well as inset maps for built-up areas of rural polling divisions. All of these were produced in over 800 variously scaled sizes to optimize the product quality.

To illustrate the quantity of maps produced, the electoral district of Berthier–Montcalm had the largest number of maps (489) and the electoral district of Nunavut had the fewest maps (61). The average for all 301 electoral districts across Canada was 217 maps, for a grand total of 65 317 map products.

Complete sets for each electoral district were sent to the headquarters of all Canadian political parties. Each member of Parliament received two complete sets for his or her electoral district. Sets for each electoral district were sent to the 301 returning officers across the country and subsequently distributed to the local riding associations and to the nominated candidates to help them plan their electoral campaigns. This totalled more than 6.7 million documents.

## IMPROVING THE PAYMENT PROCESS

Following the 36th general election, Elections Canada recognized a need to review payment procedures for election workers. The existing process was complex and labour-intensive – both in the field and at Elections Canada. In redesigning the process, staff sought “low-technology” alternatives (e.g. policy/procedural changes) before resorting to computer-based solutions, and took into account the realities of a 36-day decentralized event by developing flexible, yet easy-to-learn procedures and minimizing duplication of effort.

Before the 37th general election, the Election Financing Directorate (recently renamed the Electoral Financing and Corporate Services Directorate) redesigned its multi-stream payment process into the Returning Office Payment System (ROPS). The new integrated payment management system has a clear accountability framework and measurable performance expectations and goals. It provided streamlined and simplified procedures to pay more than 160 000 election workers and landlords of premises used as polling sites at the 2000 general election, and to support a range of business requirements.

The need for specialized financial training for the returning officers and their accounting clerks was addressed with a *Financial Systems Procedures and Training Manual* on CD-ROM. The manual includes user guides, forms and documentation that staff would require over the course of an event.

Returning officers were encouraged to maximize the use of their acquisition cards. This resulted in more timely payments to suppliers and less documentation for both returning officers and Elections Canada.

ROPS helped returning officers track staff budgets, produce financial reports and generate the necessary forms and payment documentation for poll officials, office staff and landlords of polling stations. The documentation was transmitted to Ottawa, where payments are processed. Within a four-week period following the 2000 election, Election Financing processed over 95 percent of the payments to election workers and landlords.

Phase II of ROPS is in the final stages of completion. This phase is primarily the headquarters component, which must meet the government-wide Financial Information Strategy (FIS) requirement. The system will submit payment requests directly to Public Works and Government Services Canada (PWGSC), and provide the Financial Information Management System with summary accounting transactions that meet accrual accounting requirements. In consultation with returning officers, the Electoral Financing and Corporate Services Directorate continues to review payment processes. The goals are to improve delivery of client services and to give returning officers more time to focus on their core responsibilities by minimizing burdensome administrative tasks.

## CANDIDATES' ELECTRONIC RETURNS

The election expenses returns for approximately 500 of the 1 808 candidates at the 2000 general election were prepared electronically, using the Electronic Candidate's Return (ECR). Candidates' official agents could use the computer application supplied by Elections Canada to record the information required to issue tax receipts and to import data from other accounting software programs.

The *Canada Elections Act* requires all official agents, on behalf of their candidates, to submit a return that discloses all contributions received and all election expenses incurred. The official agent is also required to file with the Canada Customs and Revenue Agency (Taxation) a report of the total amount of contributions received and the total amount of contributions received for which official receipts for income tax purposes were issued. A return prepared by computer saves time, helps ensure all the needed information is included, and reduces the processing time at Elections Canada. The program also gives the agents the option of having Elections Canada print the tax receipts for them.

Elections Canada is planning improvements to the software for the next general election.

## THE CANADA AND THE WORLD PAVILION

One of the newest attractions in the nation's capital, the Canada and the World Pavilion, showcases the contributions of hundreds of Canadians who are making their mark around the world today. The contents of the new underground exhibition halls are designed to increase awareness of Canada's global presence and its achievements in the arts, sports, international co-operation, commerce, science and technology. The state-of-the-art exhibits and events include interactive displays, interesting programs and special activities.

The pavilion is located at 50 Sussex Drive, in picturesque Rideau Falls Park, just down the street from the official residences of the Prime Minister and the Governor General, on the international leg of Confederation Boulevard. It is sponsored by the National Capital Commission and several federal partners, including the Department of Foreign Affairs and International Trade, the Canadian International Development Agency, National Defence, the Communications Research Centre and the Canadian Space Agency.

The Elections Canada module in the pavilion outlines the agency's contribution to promoting and supporting fair elections in emerging democracies. In June of last year, Elections Canada held an election simulation at the pavilion to help young people learn

about the electoral process. In keeping with the Canada and the World spirit, the participants voted for one of the Seven Wonders of the World. The pyramids of Egypt received the most votes.

For more information about the pavilion and its activities, click on Special Events in the Youth section of the Elections Canada Web site ([www.elections.ca](http://www.elections.ca)).

## INTERNATIONAL ACTIVITIES

### U.S. NATIONAL COMMISSION ON FEDERAL ELECTION REFORM

**O**n June 5, 2001, Chief Electoral Officer Jean-Pierre Kingsley presented testimony at a public hearing sponsored by the U.S. National Commission on Federal Election Reform, in Ann Arbor, Michigan. As a member of a panel established to provide international perspectives on electoral administration, the Chief Electoral Officer provided an overview of the management of elections in Canada. He spoke about the areas of electoral administration that were of particular interest to the Commission, including ballot design, absentee ballots, voter registration, the manual counting of ballots and the role of Elections Canada.

The Commission, organized by the Miller Center of Public Affairs of the University of Virginia and the Century Foundation, was formed in the wake of voting problems experienced during the 2000 U.S. presidential election and had an initial focus on standardizing methods for casting and counting votes across the United States. The June 5th hearing was the last of four hearings held in various U.S. locations. Members of the Commission, including the honorary co-chairs, former presidents Gerald Ford and Jimmy Carter, heard testimony from various experts in electoral administration, as well as from federal and state legislators, academics and interest groups.

In July, the Commission recommended that the individual states establish their own systems for voter registration. It also called for a modernizing of ballots and election equipment and said that voters challenged by poll workers should be allowed to cast provisional ballots whose validity would be determined later. The 19-member commission also stated that Congress should consider legislation to ban disclosure of any official results until 11 p.m. EST on election night, if the media is not willing to voluntarily refrain from airing state-by-state projections until all the polls in the continental United States have closed. The Commission also suggested that the U.S. election day be designated a federal holiday.

### INTERNATIONAL SEMINAR ON MONEY AND POLITICAL ELECTORAL CONTESTS, MEXICO

The Chief Electoral Officer, Elections Canada's Chief Legal Officer Diane Davidson, and Assistant Director of International Services France Demianenko participated in the International Seminar on Money and Political Electoral Contests, June 5–8, 2001, in Mexico City. They reviewed a discussion paper which stated, "we can assume that there will be a strong linkage between money and elections" and that "in the last two decades there have been important universal changes in what concerns politics, democracy and elections, that have not only made this connection more visible but which have also turned it into an issue of special interest and conferred on it priority status in the agendas for discussion and reflection in electoral-political matters."

Mr. Kingsley called for reforms to Canada's election financing system to correct "a few significant weaknesses in accountability." He stated, "Canadians have the right to know – they do not now – who contributes to the various campaigns that ultimately determine who will be elected, whether they be candidates for a party's leadership, or men and women campaigning for nomination as candidates. And they have no access to information about the financial activities of local party associations."

The organization of the seminar was promoted jointly by the United Nations, the International Institute for Democracy and Electoral Assistance (IDEA), the International Foundation for Election Systems (IFES), the Spanish Ministry of the Interior, Poder Ciudadano (Citizen Power), Elections Canada, the Electoral Tribunal of the Judicial Branch of the Federation (TEPJF, Mexico) and the Federal Electoral Institute (IFE, Mexico).

Elections Canada and the Federal Electoral Institute (IFE) of Mexico also renewed, for another five years, their bilateral technical cooperation agreement. It was signed by Chief Electoral Officer Jean-Pierre Kingsley, and IFE's President Councilor José Woldenberg Karakowsky and Executive Secretary Fernando Zertuche Muñoz.

### CEO CHAIRS IFES STRATEGIC PLANNING PROCESS

Early last year, Chief Electoral Officer Jean-Pierre Kingsley was appointed chair of the Strategic Planning Committee of the International Foundation for Election Systems (IFES). IFES is an international, non-partisan, non-governmental organization that has undertaken activities, including technical assistance, related to democracy and governance in more than 100 countries since 1987. Mr. Kingsley is a member of its board and was invited to lead the strategic planning work because of Elections Canada's extensive experience in developing and implementing its strategic planning process for the administration of elections.

The planning committee was formed in February of last year. In April, in Washington, it reviewed the draft plan prepared by the staff of IFES to set out the most urgent strategic issues. After further development work, in June, the IFES board adopted the new IFES Strategic Plan, which will be in place for the next three years. The committee reviewed the plan again in September, to determine the best methods for achieving its goals.

### INTERNATIONAL IDEA'S DEMOCRACY FORUM 2001 IN STOCKHOLM

More than 250 information technology specialists and business leaders, election managers, policy makers, development experts and politicians from around the world met last year to explore the implications of the information technology revolution for democracy and its core values. They gathered in Stockholm, Sweden, in late June to participate in the International Institute for Democracy and Electoral Assistance's Democracy Forum 2001, entitled "Democracy and the Information Revolution: Values, Opportunities and Threats."

Keynote speakers at the Forum included Finland's President Tarja Halonen; European Union Commissioner Erkki Liikanen; Bangladesh's Grameen Bank President Muhammad Yunus; and Harvard University Professor Pippa Norris. Among the Canadians attending was former Assistant Chief Electoral Officer, International Services, Ron Gould. The Forum discussed the implications of the information revolution for democracy and its core values; opportunities for and threats to democratic governance from rapid information flow and access; and practical ways in which information technology is being and can be used to strengthen democracy. For more information about the Democracy Forum 2001, visit [www.idea.int](http://www.idea.int).

## ASSISTANT CHIEF ELECTORAL OFFICER RETIRES

**R**on Gould, Elections Canada's Assistant Chief Electoral Officer for the past two decades, has retired after 47 years of public service.

At a reception honouring Mr. Gould on November 6 last year, Chief Electoral Officer Jean-Pierre Kingsley stated that "I can think of no better summary of Ron's accomplishments and stature than the citation read at his induction as a Member of the Order of Canada by the Governor General in 1997:

Through his work with Elections Canada he has earned a worldwide reputation as the top "democracy salesman". He has been called upon to teach the theory and mechanics of Canadian elections to emerging democracies from Bulgaria to El Salvador to Cambodia, representing Canada with honour and integrity. In helping to build a better world community, perhaps his most important mission was as one of five commissioners responsible for setting up the epoch-making free elections in South Africa."

Mr. Kingsley concluded by saying "there you have the essence of Ron Gould – helping to build a better world community. A remarkable career, and a remarkable man."

The architect of Elections Canada's international program, Mr. Gould has taken part in electoral missions in at least 34 countries and areas, and in electoral consulting and planning in more than a dozen others. His advice has been sought by the United Nations, the Commonwealth, the Organization of American States, and the Organization for Security and Co-operation in Europe. He has headed or been actively involved in overseas electoral missions for the International Foundation for Election Systems, the International Institute for Democracy and Electoral Assistance (International IDEA), the National Democratic Institute of the Carter Center, and the Inter-American Union of Electoral Organizations, among others.



Photo: Wayne Brown

On November 6, retiring Assistant Chief Electoral Officer Ron Gould received a plaque thanking him for his 47 years of loyal public service. The plaque, signed by Prime Minister Jean Chrétien, was presented by Chief Electoral Officer Jean-Pierre Kingsley.

## Ron Gould

47 YEARS OF PUBLIC SERVICE



Photo: Wayne Brown

20 YEARS AS ASSISTANT CHIEF ELECTORAL OFFICER

The United Nations Association in Canada awarded him its Medal of Honour in 1995, for his efforts on behalf of the UN. He organized the UN mission to Nicaragua in 1989, and led a fact-finding mission to Cambodia to help plan and organize the 1991 elections there. He directed the UN's Electoral Assistance Division in Mozambique, and took part in the UN's pre-electoral mission to Tanzania in 1995. He advised the Russian Election Commission in 1995 and was a member of the Independent Electoral Commission of South Africa in 1994.

In 1995, COGEL – the Council on Governmental Ethics Laws – presented him with its Outstanding Service Award in recognition, as COGEL's citation put it, "of his continued efforts to promote the highest level of ethical conduct amongst governmental officials and candidates for public office in the international arena".

Mr. Gould has published two books: *Strengthening Democracy: A Parliamentary Perspective* (1995), with Christine Jackson and Loren Wells, and *A Guide for Election Observers* (1995), with Christine Jackson, commissioned by the Commonwealth Parliamentary Association.

Despite his official retirement, Ron Gould will continue working part-time for Elections Canada on international assignments, and as a part-time senior executive with International IDEA, based in Stockholm, Sweden. He is currently organizing, on behalf of the Chief Electoral Officer, the COGEL conference to be held in Ottawa from September 29 to October 3 of this year. ✎

# Electoral Facts

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To help ensure the federal electoral system is open, fair and accessible, the *Canada Elections Act* includes financial provisions that apply to registered political parties, candidates and third parties. While there are no limits on the amounts they may receive in contributions, the Act restricts the amounts that candidates and political parties may spend on election expenses. Similar provisions concerning limits on the ability of third parties to spend on election advertising are currently being challenged before the courts. The public treasury reimburses part of the election expenses of candidates and registered political parties that meet certain conditions. How much could be spent and was spent by the parties, candidates and third parties that participated in the most recent general election, in 2000? The answers are below. For comparison purposes, we have also included the figures from the previous (1997) election.

## Candidates and parties

There were 11 officially registered parties in the 2000 general election, and 10 in 1997. They each had at least 50 candidates, the minimum number required to qualify as registered parties. There were 1 808 candidates at the most recent election, as compared to 1 672 three and a half years earlier.

## Election expenses limits for registered parties

The spending limits for parties are based on the number of electors on the preliminary or the revised voters lists (whichever is largest) in the ridings where the parties have confirmed candidates.

## Election expenses limits for candidates

The limit for candidates varies from riding to riding, although all candidates in a riding are subject to the same limit. The limits are based on the number of electors on the preliminary or revised voters lists (whichever is largest) for each riding. The higher the

numbers of electors, the higher the spending limit. The limits are adjusted for sparsely populated and geographically large ridings.

The average expenses limit for candidates in the 2000 election was \$68 019. The highest limit of \$83 654 applied to candidates in the riding of Peace River, in Alberta. The lowest limit of \$51 855 applied to candidates in the riding of Malpeque, in Prince Edward Island.

The average expenses limit for candidates in the 1997 election was \$62 624. The highest limit of \$78 589 applied to candidates in the riding of Peace River. The lowest limit of \$49 414 applied to candidates in the riding of Malpeque.

## Spending by candidates (as submitted in candidates' campaign returns)

The average amount of election expenses for candidates in the 2000 election was \$20 836. The average amount of election expenses for candidates in the 1997 election was \$23 428.

Registered parties in 2000 election	Number of candidates	Limits (\$)	Actual spending (\$)
Bloc Québécois	75	3 383 175	1 968 693
Canadian Action Party	70	3 097 545	392 108
Canadian Reform Conservative Alliance	298	12 638 257	9 669 648
Communist Party of Canada	52	2 264 407	13 563
Liberal Party of Canada	301	12 710 074	12 525 174
Marijuana Party	73	3 284 537	9 724
Marxist-Leninist Party of Canada	84	3 817 444	2 088
Natural Law Party of Canada	69	3 096 518	38 304
New Democratic Party	298	12 584 911	6 334 585
Progressive Conservative Party of Canada	291	12 352 405	3 983 301
The Green Party of Canada	111	4 888 177	17 747

There were also 29 independent candidates and 57 with no affiliation.



Registered parties in 1997 election	Number of candidates	Limits (\$)	Actual spending (\$)
Bloc Québécois	75	3 019 087	1 629 497
Canadian Action Party	58	2 250 715	490 441
Christian Heritage Party of Canada	53	2 065 120	75 229
Liberal Party of Canada	301	11 358 749	11 247 141
Marxist-Leninist Party of Canada	65	2 466 604	375
Natural Law Party of Canada	136	5 242 080	292 253
New Democratic Party	301	11 358 749	5 976 724
Progressive Conservative Party of Canada	301	11 358 749	10 288 333
Reform Party of Canada	227	8 503 058	4 921 733
The Green Party of Canada	79	3 154 376	16 090

There were also 44 independent candidates and 32 with no affiliation.

## Reimbursements

The public treasury reimburses part of the election expenses of registered political parties and candidates, if certain conditions are met, including the submission of detailed financial statements.

### Reimbursements for registered political parties

Registered political parties that obtain at least 2 percent of the total valid votes cast in a general election, or 5 percent of the valid votes cast in the ridings where they present candidates, have the right to a reimbursement of 22.5 percent of their actual election expenses paid.

In 2000, five registered parties received reimbursements. The average reimbursement was \$1 536 072. In 1997, five registered parties received reimbursements. The average reimbursement was \$1 492 693.

### Reimbursements for candidates

A candidate who is elected or receives at least 15 percent of the valid votes cast in his or her riding at the election is entitled to a reimbursement of 50 percent of actual election and personal expenses paid, to a maximum of 50 percent of the election expenses limit in that riding.

In 2000, 685 candidates were entitled to receive a reimbursement. In 1997, 801 candidates were entitled to receive reimbursements.

## Third party limits and spending

Third parties are persons and groups that play a role in the election process, but are not candidates for office, registered political parties or their electoral district associations. Any third party that spends \$500 or more for election advertising must register with the Chief Electoral Officer and submit a financial statement after the election. In the *Canada Elections Act* adopted in 2000, the election advertising expenses of third parties were limited to \$150 000 for a general election, of which a maximum of \$3 000 could be spent in any one electoral district. These limits are currently being challenged before the courts. There were 49 third parties at the 2000 general election. Elections Canada received 44 third party reports. The average amount spent by those third parties was \$9 447.47.

## Public disclosure

Every registered political party must submit an audited return of its election expenses to the Chief Electoral Officer within the six months following election day. Each candidate is required to submit an audited return of election expenses to the Chief Electoral Officer within four months of election day. The returns must show all election expenses incurred, indicate the amounts and sources of all contributions, and disclose the names and addresses of all those whose contributions exceed \$200. Within four months of election day, third parties must report the contributions received to finance their election advertising, as well as the details of their election advertising expenses. ✕



# Electoral information for you, at [www.elections.ca](http://www.elections.ca)

*Recent additions to the Elections Canada Web site include:*

**Modernizing the Electoral Process**

Recommendations from the Chief Electoral Officer of Canada following the 37th general election in 2000.

**2000 General Election Post-event Overview**

An evaluation of the 37th general election by the political parties, candidates, third parties, academics and electors.

**Report of the Chief Electoral Officer of Canada on the 37th General Election**

Describes Elections Canada's work preparing for and conducting the 37th general election.

**Thirty-seventh General Election 2000: Official Voting Results**

This report presents the complete poll-by-poll results for all electoral districts, by province or territory, as well as a synopsis.

**Registered Political Parties' Election Expenses Report**

Includes the authorized election expenses limits, the audited reports of election expenses and the reimbursements for each of the 11 registered political parties at the 2000 general election.

**Candidates' Contributions and Election Expenses**

A searchable database of candidates' contributions and election expenses for the 2000 general election (and the 1997 election).

**Registered Political Parties' Fiscal Period Returns**

This searchable database includes the contributions received and expenses incurred for 2000 (as well as for the 1999 and 1998 fiscal years).

**Canada's Electoral System**

This updated 56-page publication includes changes resulting from the passage of Bill C-2 in 2000.

**The Compendium of Election Administration in Canada**

An updated comparative analysis of federal, provincial and territorial election legislation.

**Web Module for the Federal Representation 2004 Project**

Provides detailed information on the process of the redistribution of federal electoral boundaries, which officially began in March 2002.

*Please visit the Web site soon, and bookmark it for future reference.*